

*United States Court of Appeals
for the Second Circuit*



APPENDIX

74-1119

IN THE UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

AVIS RENT A CAR SYSTEM, INC.,

Plaintiff-Appellee

v.

UNITED STATES OF AMERICA,

Defendant-Appellant

ON APPEAL FROM THE UNITED STATES
DISTRICT COURT FOR THE EASTERN
DISTRICT OF NEW YORK

APPENDIX

Volume III (pp. 381-575)

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

AVIS RENT A CAR SYSTEM, INC.,

Plaintiff,

vs.

UNITED STATES OF AMERICA,

Defendant.

Civil Action
No. 70-C-70

[Filed April 9, 1973]

DEPOSITION UPON ORAL EXAMINATION OF QUEEN ANNE SHRAG

BE IT REMEMBERED that on Wednesday, February 28, 1973, 11:25 a.m., 1012 United States Courthouse, Seattle, Washington, before Maxine T. Robinson, Notary Public in and for the State of Washington, appeared QUEEN ANNE SHRAG, the witness herein.

APPEARANCES

For the plaintiff

STUART B. STILLMAN, ESQ.
900 Old Country Road
Garden City, New York 11530

For the defendant

ROBERT J. HIPPLE, ESQ.
Trial Attorney, Tax Division
Department of Justice,
Washington, D.C.

WHEREUPON, the following proceedings were had:

MAXINE T. ROBINSON
Court Reporter
1214 Hage Bldg.
Seattle, Washington 98104
MAin 2-6244

1 QUEEN ANNE SHRAG,

2 being first duly sworn to
3 tell the truth, the whole
truth and nothing but the
truth, testified as follows:

4 DIRECT EXAMINATION

5 BY MR. HIPPLE:

6 Q Would you state your full name and address please?

7 A My full name is Queen Anne Shrag, 5927 45th Southwest,
8 Seattle.

9 Q Are you currently employed?

10 A No, I am not.

11 Q Have you ever been associated in any way with Avis Rent
12 A Car?

13 A Yes, I have.

14 Q In what capacity?

15 A Well, I shuttle cars for them now and again.

16 Q Do you recall when it was you did that?

17 A Just yesterday, as a matter of fact.

18 Q When was the first time when you first started?

19 A Let's see --

20 MR. STILLMAN: The year will be sufficient.

21 A About three years ago. I can't remember -- it was just
22 after my -- second daughter was born.23 MR. STILLMAN: The record should reflect
24 that I have a continuing objection to questions
25 which are asked which pertain to the years outside

1 1962 through 1966.

2 Q (By Mr. Hippie) Will you describe what you did as a
3 shuttler for Avis, just in general terms?

4 A I just took the cars where I was told to take them.

5 Q Do you recall how you first found out about shuttling?

6 A Yes. My next door neighbor was driving for them.

7 Q Who is that?

8 A Louise Askey. I don't live next door to her now, but I
9 did then.

10 Q Approximately how often did you do it when you first
11 started?

12 A When I first started, maybe once; then every two weeks.

13 Q In what areas did you do it? You took them from downtown
14 to the airport and back? Anywhere else?

15 A That, and to Portland and back, I can remember real well.

16 Q Did you get your first shuttling contract through
17 Mrs. Askey?

18 A Well, yes, I guess so.

19 Q Have you gotten them, all of them, through her?

20 A Yes.

21 Q Have you ever been contacted by anyone from Avis directly?

22 A No.

23 Q Did anybody explain the shuttling procedure to you, what
24 you were supposed to do?

25 A She did, yes.

- 1 Q Anybody at Avis?
- 2 A No, they never told me what to do.
- 3 Q Do you recall having to fill out any kind of personal
- 4 information forms?
- 5 A No.
- 6 Q Do you know whether Avis keeps a list of people that do
- 7 shuttling or have done shuttling in the past?
- 8 A I have no idea.
- 9 Q When you pick up a car do you have an agreement or
- 10 contract of any kind?
- 11 A We have a -- when we take a car you mean?
- 12 Q Yes.
- 13 A We have an agreement. We call them non-revenue tickets,
- 14 that we make out. Each one of the girls makes one out
- 15 before they take the car.
- 16 Q I show you what we have marked as Defendant's Exhibit A
- 17 previously and ask you if it is something like that one,
- 18 not necessarily identical?
- 19 A No. I can show you the one that we use, but that isn't it.
- 20 Q That is not it?
- 21 A No. This is it right here (handing document to counsel).
- 22 I haven't seen one like that.
- 23 Q That is an older version of it. Do you have one of
- 24 those every time you move a car?
- 25 A Every time we take a car.

- 1 Q Who fills that out?
- 2 A We do. Each one.
- 3 Q Was the purpose or effect of that agreement ever
4 explained to you?
- 5 A No.
- 6 Q Did you ever refuse to sign one?
- 7 A No.
- 8 Q Did you ever shuttle a car without having signed one?
- 9 A Oh, no.
- 10 Q When you first started shuttling did anybody ask you for
11 your social security number?
- 12 A No.
- 13 Q How about your driver's license?
- 14 A No. Although we did have little cards, now, that -- but
15 nobody's ever asked us for them.
- 16 Q Nobody checked your driver's license when you first
17 started?
- 18 A No.
- 19 Q How about your driving record?
- 20 A Not -- no, they never checked it.
- 21 Q How about a home address or telephone number?
- 22 A What? Do you mean did they ask me for my home address?
- 23 Q Yes.
- 24 A No.
- 25 Q This is all through Mrs. Askey that you dealt?

1 A Well, when I -- like when I would send my tickets in at
2 the end of the month I would have my name and address
3 on the outside so when she sent the check she could send
4 it to my address instead of giving it to Louise.

5 Q Was there any kind of an interview or anything like that
6 with anybody at Avis before you started shuttling?

7 A No.

8 Q Would you describe the general steps, step-by-step process,
9 which took place when you shuttled a car, from the time
10 you were first contacted and had to pick it up until you
11 actually turned it in? Where did you go and what did you
12 do?

13 A When I first started or --?

14 Q If you remember, if it was any different.

15 A She just called me and she asked me if I wanted to drive
16 some cars or if I was busy, and I said "No," and she
17 asked me if I wanted to drive some cars for Avis -- oh,
18 we were going to Olympia at that time, that's when I
19 first started -- and I said "Yes, I would love to," and
20 she said "Okay," and so they picked me up, we went out
21 to the airport and picked up one car and went to Olympia
22 and then picked up the cars there and brought them back
23 to the airport, and came home.

24 Q Was there any kind of a check-in procedure when you got
25 back?

- 1 A No, all we did was turn in our tickets.
- 2 Q After you went to the airport?
- 3 A After we came back to the airport we turned in our tickets.
- 4 Q Was there anyone in particular you had to see at Olympia
- 5 to pick up the cars?
- 6 A Well, no. No, actually there is nobody in particular
- 7 any place that we go to pick up the cars that we have to
- 8 see in particular as long as they know we have come after
- 9 them.
- 10 Q You just don't walk in and pick up a car?
- 11 A No, you don't say "I am from Seattle and we come to pick
- 12 up a car."
- 13 Q Do you have the contract with you when you go to pick up
- 14 the car? In Olympia, for example.
- 15 A No, you just have -- you have your own individual contract
- 16 and when you pick that car up you write in all of th-
- 17 stuff that is on the car, like the car number and the
- 18 license plate number and where you are transferring it to
- 19 -- from Olympia to Seattle or wherever.
- 20 Q You take a blank contract with you?
- 21 A Right.
- 22 Q Do you personally keep a supply of those contracts?
- 23 A I don't, no.
- 24 Q Where do you get them?
- 25 A I get them from Louise.

- 1 Q She keeps a supply?
- 2 A Right.
- 3 Q Do you recall how you were paid -- how you are paid?
- 4 A I am paid by check.
- 5 Q Weekly, monthly, every trip?
- 6 A Monthly.
- 7 Q For all the trips you have had in that month?
- 8 A For everything we have had in that month.
- 9 Q Do you recall how the amount was fixed?
- 10 A You mean for each trip?
- 11 Q Yes.
- 12 A Oh, I guess the people at Avis got together and decided
13 how much that each trip should be.
- 14 Q Just a flat amount for each trip?
- 15 A Right. And that's what we get.
- 16 Q Have you ever driven on a mileage basis, so much a mile?
- 17 A No.
- 18 Q Have you ever made any trips where there are extra
19 expenses such as tolls or gas, oil, things like that?
- 20 A Yes, we have. We went to California one time, and we
21 had to buy chains and -- but Avis reimbursed us for all
22 that.
- 23 Q Have you ever made a trip which involved staying
24 overnight some place?
- 25 A The one in California.

- 1 Q Did Avis pay for the accommodations?
- 2 A Not for the motel.
- 3 Q Did they pay for any meals?
- 4 A No.
- 5 Q Were you given a specific route to follow?
- 6 A No.
- 7 Q A specific time to be there?
- 8 A Nope.
- 9 Q A specific time in which to get the car there, an hour
10 or --?
- 11 A Sometimes. Sometimes if there is a customer waitin',
12 like downtown, you know, and he wants the car right away
13 we try and see that we get it down there as fast as we
14 can, but you can only go so fast to get it there.
- 15 Q Unless you are told there is a customer waiting --
- 16 A Yes, but there is no specific time limit. We have got
17 whatever time we can get them there.
- 18 Q Were you allowed to use the car for personal purposes
19 on the way?
- 20 A No, sir.
- 21 Q Did anybody tell you that you could not?
- 22 A We were told that -- well, in the contract it says we
23 can't. I just took it for granted we can't, you know.
24 I've never asked.
- 25 Q Nobody has said anything specifically about that?

- 1 A No.
- 2 Q Was it ever explained to you what happened if you should
3 get a speeding ticket on the way?
- 4 A Yes, we paid for it.
- 5 Q Did they tell you that?
- 6 A I don't know. Avis didn't tell me that but -- who did?
7 I think that Louise told me.
- 8 Q Did anybody from Avis explain to you or give you any
9 instructions on what to do if the car broke down or you
10 had an accident on the way?
- 11 A Get it fixed, or if it breaks down, to call and somebody
12 would come and pick us up.
- 13 Q Somebody in Avis told you to do this or what to do?
- 14 A No. I have really never had that much to do with any
15 of the employees of Avis, you know. The only ones I ever
16 see are the lot boys, and I see Kitty Fletcher now and
17 again, but as far as them ever telling me anything to do,
18 I don't remember they ever have.
- 19 Q Do you know whether you are covered by auto insurance
20 while you are driving cars?
- 21 A Not with Avis, I don't think so.
- 22 Q Did you ever ask anybody about that?
- 23 A No, I never did.
- 24 Q Did you ever have an accident while you were driving?
- 25 A No. Well, not a personal accident, I had a car burn up

1 on me, but that's all.

2 Q Do you know whether social security or unemployment taxes
3 or withholding taxes were ever deducted from the amount
4 of your monthly check?

5 A I don't know.

6 Q Was anything ever said to you about payroll deductions?

7 A No.

8 Q Did you ever ask about the social security employment
9 taxes?

10 A No, because I didn't figure I was working for the company.

11 Q The monthly checks you get, is there anything on that
12 check to identify it, an account number or anything like
13 that?

14 A All it says is the amount and then it has got code numbers
15 on it for your tickets, and that's it.

16 Q Do you know anybody else who has done any shuttling for
17 Avis in the past besides Mrs. Askey?

18 A No. She's the only one that I know of that I have ever
19 associated with. See, I don't do it that much.

20 Especially now, because my girl is in school and my
21 husband doesn't like me to be gone from the house when
22 she is in school. The only time I do it now is on the
23 weekends or when she really needs me badly.

24 Q Do you know of anyone doing any shuttling who is a
25 regular full-time employee of Avis such as a mechanic or

- anything?
- 2 A No.
- 3 Q Did you ever see any advertisements for shuttlers in
4 newspapers?
- 5 A No.
- 6 Q When you pick up a car do you get anything besides the
7 vehicle transfer contract and the keys?
- 8 A That's it.
- 9 Q Do you know whether you were covered by health insurance
10 or any of the fringe benefits of Avis?
- 11 A No.
- 12 Q You are not covered? . . .
- 13 A I don't think so. I don't know.
- 14 Q You have never filed a claim or anything like that with
15 Avis?
- 16 A I never got sick or anything, so I had no reason to.
- 17 Q Was anyone who shuttled frequently given preference in
18 the regular shuttle over someone that doesn't do it very
19 much?
- 20 A You mean does somebody do it more than the next person
21 does?
- 22 Q Yes.
- 23 A No.
- 24 Q It's on a first-come, first-served?
- 25 A Just whoever they can get a hold of more or less.

1 Q Did you ever have to share any part of your fee and
2 compensation with anybody else?

3 A Well, there is a -- we have a deal like if one person
4 makes one trip and one person sits one out, then we all
5 share equally so everybody comes out at the end with
6 even money.

7 Q Just an arrangement among the group that are driving?

8 A Yes.

9 Q Is there a foreman or head shuttler or someone like that
10 at Avis that you dealt with?

11 A Just Louise. That's all I ever dealt with.

12 Q Were you given any kind of identification card or badge
13 to identify you as a shuttler for Avis?

14 A I can't really say that it shows I am a shuttler for Avis.
15 I have got a card but it doesn't identify a thing.

16 Q Do you know what the purpose of that card is?

17 A No.

18 Q Do you recall when it was they gave it to you?

19 A Do I recall who it was?

20 Q When.

21 A When -- last year I think it was.

22 Q It was not when you first started?

23 A No. This is just something new that they started.

24 Q Do you know what the purpose of the card is?

25 A No. It's dumb.

1 Q Have you ever used it?
2 A We had one before and I used it one time in Portland
3 and that's all.
4 Q You say you had one before this one?
5 A Well, it's the same one. They're both the same.
6 Q They renew it from time to time?
7 A I guess. I think they are dumb myself. They are both
8 exactly the same thing only they are signed different.

9 (Witness hands document
10 to counsel)

11 Q Who gave it to you, do you remember?
12 A The first one we got from Steve Sunberg and the second
13 one I got from Kitty Fletcher, but it doesn't say anything
14 about Avis on it or anything else.
15 Q I think I asked this but I have forgotten your answer.
16 Did you say you actually used this?
17 A Just one time. In Portland.
18 Q Any problems with it?
19 A No.
20 Q They just took it --
21 A Yes, they put it in one of those machines like you do a
22 credit card, you know.

23 (Counsel returns document
24 to witness)

25 Q Do you know of any kind of records that are maintained by

1 Avis to show the dates and amounts, and so forth, of
2 payments made to the shuttlers?

3 A No, I don't.

4 Q Did you turn your vehicle transfer contract in directly
5 to somebody at Avis or did you give that to Mrs. Askey
6 and have her give it to them?

7 A At the end of the month I put them all in an envelope and
8 I give them to Mrs. Askey and she turns all of them in
9 at one time. Or if she is not there I take mine down to
10 Kitty Fletcher.

11 Q Do you ever have to sign a receipt or petty cash slip
12 or anything of that type?

13 A No.

14 Q To get paid.

15 A No.

16 Q Do you know of anyone who has driven shuttle cars for
17 Avis in the past being refused or not allowed to do it
18 again for some reason?

19 A That are not allowed to do it again?

20 Q Yes.

21 A No.

22 Q During the time that you have been driving for Avis was
23 the need for shuttlers a regular thing or just certain
24 days?

25 A Just certain days. If they need the cars real bad or

1 something like that. Usually on Monday and Friday, but
2 it isn't an everyday thing. At least it is not with me.

3 MR. HIPPLE: That's all I have.

4 MR. STILLMAN: I have no questions.

5 (Witness excused at 11:45 a.m.)

6 Signature waived.

7 Notice of filing waived.

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MAXINE T. ROBINSON
Court Reporter
1214 Hugo St.
Seattle, Washington 98104
MAin 2-6244

1 UNITED STATES DISTRICT COURT
2 WESTERN DISTRICT OF NEW YORK

3 AVIS RENT A CAR SYSTEM, INC.,

4 Plaintiff,

5 vs.

6 UNITED STATES OF AMERICA,

7 Defendant.

Civil Action
No. 70-C-70

[Filed April 9, 1973]

8 DEPOSITION UPON ORAL EXAMINATION OF JANET STEIGER
910 BE IT REMEMBERED that on Wednesday, February
11 28, 1973, 1:50 p.m., 1012 United States Courthouse, Seattle,
12 Washington, before Maxine T. Robinson, Notary Public in and
13 for the State of Washington, appeared JANET STEIGER, the
14 witness herein.15 APPEARANCES

16 For the plaintiff

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900 Old Country Road
Garden City, New York 11530

18 For the defendant

ROBERT J. HIPPLE, ESQ.
Trial Attorney, Tax Division,
Department of Justice,
Washington, D.C.

25 WHEREUPON, the following proceedings were had:

MAXINE T. ROBINSON
Court Reporter
1214 Hogue St. Jr.
Seattle, Washington 98104
MAIN 2-6244

1 JANET STEIGER,

2 being first duly sworn to
3 tell the truth, the whole
truth and nothing but the
truth, testified as follows:

4 DIRECT EXAMINATION

5 BY MR. HIPPLE:

6 Q Would you state your name and address please?

7 A Janet Steiger, 1604 South 251 Place, Kent, Washington.

8 Q Are you currently employed?

9 A Yes, I am.

10 Q Were you employed during the period from 1962 to 1966?

11 A Yes, I was.

12 Q Full-time employment?

13 A Part of the time.

14 Q During that same period --

15 MR. STILLMAN: Let me understand that answer.

16 Q I was going to ask in the next question, Where during
17 that period of 1962 to 1966?

18 A Avis Rent A Car.

19 Q What were you doing?

20 A I was rental agent.

21 Q During that time did you have any connection with the
22 car shuttling operation?

23 A By car shuttling do you mean --?

24 Q From the airport to town and back.

25 A Yes, I did.

- 1 Q Did you ever do it yourself?
- 2 A Yes, I did.
- 3 Q Let me go back a minute -- As a rental agent how were
4 you paid part time? Were you on the clock?
- 5 A By the hour, right.
- 6 Q Did you have a certain number of hours a week you worked?
- 7 A What I did, I worked vacations and weekends. I would go
8 if someone was sick, something this type of thing.
- 9 Q Where did you work? Always the same place?
- 10 A At the airport.
- 11 Q To get back to shuttling, Do you recall when it was you
12 did that? What period of time, years, not months?
- 13 A I am sure I did it throughout all those years.
- 14 Q 1962 to 1966?
- 15 A Right.
- 16 Q Do you recall approximately how often you might have done
17 it on a monthly basis?
- 18 A Oh, usually I worked Fridays. Now, this depended on,--
19 of course, when I was working a lot of times I worked
20 Friday, Saturday, Sundays. And it was usually done on
21 Fridays. So if I was working Fridays I usually helped
22 out.
- 23 Q Did you do this when you were working at Avis as a rental
24 agent?
- 25 A Yes.

- 1 Q I mean, it was part of your duties as a rental agent to
2 do this? -- or were you compensated separately?
3 A No. No, I was paid -- I was on the clock when I was
4 doing this.
5 Q Did you ever do it when you were not on the clock?
6 A No.
7 Q When you would move a car from the airport downtown or
8 vice versa did you have any kind of document or anything?
9 A Yes, we did.
10 Q Do you remember the name of that or what it was?
11 A I don't recall what it was, but it was like a small
12 memo pad where we filled out where we were, what car
13 we were taking, our name, and if it was going from what
14 place to what place.
15 Q Was it a non-revenue ticket?
16 A Yes, non-revenue ticket.
17 Q Did you ever use a vehicle transfer contract?
18 A No.
19 Q Do you know what they are?
20 A Yes.
21 Q Do you know who used those?
22 A No, I don't.
23 Q Are you familiar with any individuals who were car
24 shuttlers who were not hourly paid employees of Avis?
25 A Yes.

- 1 Q Did you see them often, deal with them at all?
- 2 A Yes, I did.
- 3 Q In what capacity? How did you deal with them?
- 4 A They would drive -- if we needed cars downtown or we were
5 too full at the airport we would send cars downtown on
6 Friday night, and these people were not employed by Avis,
7 they would come up after delivering the car to the
8 airport or whatever and they would have a signed slip
9 from the man who drives and how many trips they had made,
10 and he would pay them from the cash drawer.
- 11 Q Did you ever yourself make payment?
- 12 A Yes, I did.
- 13 Q Did they have any kind of documentation when they came in
14 that they gave you? One of the vehicle transfer contracts?
- 15 A I am trying to remember what they brought to me. I really
16 don't recall. I know they did bring something to me
17 showing me that they did. I don't recall what type of
18 document it was. It was so long ago.
- 19 Q Would it have been one of the vehicle transfer contracts?
- 20 A It may have been. It probably was. I just don't remember,
21 it's such a long time ago.
- 22 Q Were they required to sign a receipt, a petty cash slip?
- 23 A Yes, they did have to sign something.
- 24 Q Do you remember what it was specifically? What it looked
25 like?

1 A No, I don't. I know we put it in with petty cash slips
2 in the drawer.

3 Q Do you know if it was a specific form for shuttling or
4 a regular form you would use for anyone who did this kind
5 of thing?

6 A It wasn't the same form I used when I personally used the
7 car to go back and forth, no. It was a different type,
8 but I don't recall what it looked like.

9 Q The shuttling you did, was that a regular part of your
10 job or something that was done when one of these other
11 shuttlers were not around -- the people that were paid
12 for each trip, do you know?

13 A Well, it was done -- if we got an influx of cars early
14 in the day on Friday and we needed to get them out of
15 the airport because we didn't have room they would say --
16 if we had additional people -- "How would the two of you
17 like to go downtown and help take some of the cars down,"
18 and two of us would usually volunteer.

19 Q How would you get back to the airport?

20 A It would be one car to drive us back.

21 Q Two of you would go and probably one car --

22 A Three of us would go and three of us come back in one car.

23 Q Were there any kind of expenses or tolls, gas, oil, that
24 you had to pay?

25 A No.

- 1 Q Did you ever have to explain to any one of these
2 shuttlers who were not hourly employees of Avis what the
3 shuttling involved or they had to do?
- 4 A No.
- 5 Q Did you ever contact one of them yourself to move a car?
- 6 A No.
- 7 Q Do you know who did contact them --
- 8 A No.
- 9 Q -- when they did show up?
- 10 A They just appeared at the desk and we would usually get
11 a call from the garage saying they were coming up and how
12 many there were and they came up and everything was taken
13 care of, I believe, in the garage. If I recall, the
14 paperwork was. Except for the signing and the paying
15 from the desk.
- 16 Q Did they give you a name when they called you as to who
17 was coming?
- 18 A Yes, they usually did.
- 19 Q Did they have any kind of identification to show they
20 were coming for Avis?
- 21 A No.
- 22 Q Do you know any of the people that did the shuttling?
- 23 A No, I don't.
- 24 Q Were any of them regulars that showed up?
- 25 A Yes, they were. In fact, most of them were.

- 1 Q You recognized them as people that had done it in the past?
- 2 A Yes.
- 3 Q When you were moving cars for Avis did you have to get a
4 special kind of license, do you recall?
- 5 A No.
- 6 Q Did they check your license?
- 7 A Yes.
- 8 Q Did they check it periodically after that?
- 9 A Yes.
- 10 Q At certain intervals, every six months or just periodically?
- 11 A Not really. I know they checked it when I started and
12 they checked once after that. I don't recall why, but
13 this was something that we needed. The manager at the
14 airport definitely had to see everyone's license that
15 worked there, and that's the only time I recall them
16 checking it.
- 17 Q When you first started working with Avis did you have to
18 fill out an application form?
- 19 A Yes.
- 20 Q Personal information, name and address, and phone number?
- 21 A Yes.
- 22 Q Social security number?
- 23 A Yes.
- 24 Q When you were driving a car downtown or back out to the
25 airport do you know whether or not you were covered by

1 auto insurance maintained by Avis?

2 A I assumed there was, I'm not sure which, but I thought I
3 was, yes.

4 Q Do you know whether the insurance covered you personally
5 for personal injuries as well as to the car itself?

6 A No, I don't.

7 Q Do you know how the amounts that were paid to the shuttlers
8 who were not the hourly employees was fixed? How did you
9 know how much to pay them?

10 A There was a set fee. I don't know what it was offhand,
11 but it was a fee for each trip they made.

12 Q A flat dollar amount?

13 A Right.

14 Q Did you ever have to reimburse them for anything extra,
15 such as tolls or --?

16 A Not that I recall.

17 Q Were you given any instructions on what to do when you are
18 driving downtown and a car broke down or you had an
19 accident -- the specific procedure you were to follow?

20 A No.

21 Q No one person you were supposed to call?

22 A No.

23 Q During the time you were working at Avis was there ever
24 an occasion when one of the shuttlers who was not an
hourly employee called up and said he had had an accident,

- 1 he broke down?
- 2 A No.
- 3 Q Do you recall if social security, unemployment and so forth,
4 were deducted from the amounts they paid you?
- 5 A Yes, they were.
- 6 Q Do you know whether or not social security and unemployment
7 taxes, withholding taxes, were taken out of the amount
8 paid to the shuttlers who were not on an hourly basis?
- 9 A I would have no way of knowing.
- 10 Q Did any one of them ever ask you anything about such
11 deductions?
- 12 A No.
- 13 Q Can you recall the names of any of the people that were
14 shuttling cars in that period?
- 15 A No. Just -- I doubt if I could recall faces.
- 16 Q Do you know of anyone who was a full-time hourly employee
17 of Avis, mechanics or other rental agents, who were doing
18 shuttling off the clock for this fee?
- 19 A (Pause) I couldn't say for sure, no. Not on my shift.
- 20 Q Did you ever see any ads for shuttlers in a newspaper?
- 21 A No, I haven't.
- 22 Q Are you still working for Avis now?
- 23 A No.
- 24 Q Is there any kind of formal checking procedure other than
25 the signing of a petty cash slip when they delivered a

1 car to the airport? I'm talking about the amount, hourly
2 pay -- charge.

3 A They had a slip with them that showed they were -- well,
4 the vehicle transfer, I believe it was, I'm not certain
5 -- I remember they did have something that showed that
6 they had permission to take this car from one place to
7 another, and it was signed usually by the man downstairs,
8 the lot man, the man in the garage.

9 Q I am talking about when they brought the car to the airport.

10 A When they brought it to me?

11 Q Yes.

12 A They write -- downstairs the man would call up and say
13 they were coming up, the car was there, and would give
14 me either a license number or make and model of the car
15 and they would provide their copy, whatever they had, to
16 me and I would pay them for it.

17 Q Did you keep a copy of it?

18 A Yes, it went in the petty cash drawer.

19 Q I mean the contract itself, transfer contract?

20 A As I recall, we did. We put it with the slip.

21 Q Do you know whether or not when the car was brought in
22 there was any kind of check made to see if there was
23 damage or anything to the car?

24 A That would be done by the lot man.

25 Q Do you know whether or not he did it?

- 1 A I don't know whether he did it or not.
- 2 Q While you were working there part time for Avis on the
3 hourly basis do you know whether you were covered by any
4 kind of health insurance or any fringe benefits that Avis
5 had for its employees?
- 6 A Yes, I was.
- 7 Q Do you know whether or not any of these shuttlers who
8 were not being paid on the hourly basis were covered by
9 Avis?
- 10 A No, I don't.
- 11 Q During the time you were there was there ever a foreman
12 or head shuttle or someone who seemed to be directing
13 the shuttlers?
- 14 A No.
- 15 Q Do you know of any other records that were maintained by
16 Avis during this period that you were doing this besides
17 the petty cash slip and the vehicle transfer contract
18 relating to the shuttling operation?
- 19 A No.
- 20 Q Do you recall if that petty cash slip had any kind of
21 identification number or symbol or letter to identify it
22 as shuttling?
- 23 A As I recall, it was a form petty cash slip just like --
24 made up on a pad and we took one and put it with the
25 vehicle transfer, stapled them together, and put on the

front of the petty cash slip the license number and how
much was paid out and from where to where.

Q Was there any kind of account number or anything like that
entered on the petty cash slip?

A No.

Q Do you know of any individual who had done any shuttling
for Avis in the past not allowed to do it again for any
reason?

A No.

MR. HIPPLE: That's all I have.

MR. STILLMAN: I have nothing.

(Witness excused at 2:08 p.m.)

Signature waived.

Notice of filing waived.

* * * *

[Reporter's Certificate omitted in duplicating]

1 UNITED STATES DISTRICT COURT
2 WESTERN DISTRICT OF NEW YORK

3 AVIS RENT A CAR SYSTEM, INC.,

4 Plaintiff,

5 vs.

6 UNITED STATES OF AMERICA,

7 Defendant.

Civil Action
No. 70-C-70

[Filed April 9, 1975]

8 DEPOSITION UPON ORAL EXAMINATION OF ROBERT GOSLING

10 BE IT REMEMBERED that on Wednesday, February
11 28, 1973, 1:15 p.m., 1012 United States Courthouse, Seattle,
12 Washington, before Maxine T. Robinson, Notary Public in and
13 for the State of Washington, appeared ROBERT GOSLING, the
14 witness herein.

15 APPEARANCES

16 For the plaintiff

STUART B. STILLMAN, ESQ.
900 Old Country Road
Garden City, New York 11530

17 For the defendant

ROBERT J. HIPPLE, ESQ.
Trial Attorney, Tax Division,
Department of Justice,
Washington, D.C.

25 WHEREUPON, the following proceedings were had:

MAXINE T. ROBINSON
121 W. Main Street
Seattle, Washington 98104
Main 21244

1 ROBERT GOSLING,

being first duly sworn to
tell the truth, the whole
truth and nothing but the
truth, testified as follows:

4 DIRECT EXAMINATION

5 BY MR. HIPPLE:

6 Q Will you state your full name and address?

7 A Robert Gosling, 1619 East John.

8 Q In Seattle?

9 A Yes.

10 Q Your current occupation?

11 A Machinist.

12 Q Have you ever in any way been associated with Avis Rent
13 A Car Company?

14 A Yes, as -- service, and transporting the cars.

15 Q In what period of time?

16 A I started in 1964 and I think I ended in 1966.

17 Q Were you personally transporting cars?

18 A Oh, yes.

19 Q Do you recall when you first started doing it exactly?

20 A Well, it was maybe in July of 1964 or -- oh, I can't
21 remember exactly. I got my business in August but I
22 believe I actually started playing around with it probably
23 in July.

24 Q Do you recall how you first found out about the shuttle?

25 A It was through the Seattle auto auction that they have

1 down in the south end of town. And I was helping out
2 one time and thought I might be able to make a go of it
3 myself, and I started in; another couple of fellows and
4 myself.

5 Q Did you talk with anyone at Avis or discuss the possibility
6 with them?

7 A Oh, yes. Asked if we could run their cars for them.

8 Q Do you remember who it was you talked to?

9 A At Avis, I believe it was Jack Ryan was the first one I
10 contacted -- the manager at that time in Seattle. And
11 either Jack or Marion, one of the two. It was Marion
12 DeSalle.

13 Q You talked about getting your business license. Would you
14 explain that?

15 A Well, I got to getting to such a volume that I thought,
16 well, rather than have any questions about whether I was
17 in business or not I would just go down and get a
18 business license to operate cars and that way I could
19 set up, set it up with the regular account to pay anybody
20 that I needed to run cars for me extra. Thought I might
21 as well go into business.

22 Q And did you form a corporation or was it just private?

23 A No, it was just issued "Robert Gosling, doing business
24 as King Transport Company." I decided on a name; and I
25 got an answering service, and I figured, well, I would be

1 on call when they needed me, and that way I, you know,
2 thought maybe it would be easier than having to have a
3 phone at home or in an office and take a chance on
4 getting it when I was maybe not even there.

5 Q Were you doing this full time?

6 A Yes, running cars seven days a week, twenty-four hours a
7 day.

8 Q From that I assume that you weren't working anywhere else
9 at the same time?

10 A Oh, no.

11 Q How many people did you have working for you?

12 A Off and on I suppose at one time I had as many as twelve
13 drivers all in one day. It would vary from maybe just
14 myself to three or four of us. It all depends on how
15 many cars we needed transported in a busy day or out of
16 town or whatever. I would get mostly casual laborers,
17 what they call it, from the Casual Labor Office down on
18 First Avenue, but we did have some quite regular people,
19 about five of us, that would do it all the time.

20 Q Did you only shuttle cars for Avis?

21 A No. No, Hertz, Budget, Airways, anyone that wanted it;
22 private individuals.

23 Q Would you explain the general procedure that you followed
24 on a day-to-day basis in shuttling the cars? Who were
25 you contacted by?

1 A I had, as I say, my answering service. I would call in,
2 they give me the messages, who wanted my services; I
3 would call that party and they would tell me how many
4 cars, what vehicles they wanted transported and where to
5 pick them up and take them.

6 Q How did you arrange then for individual drivers?

7 A If I needed more than -- well, just for an example, Hertz
8 or Avis would say "We want ten cars in from the airport
9 by, oh, two to three hours." Three of us -- we knew we
10 could handle those within that length of time -- so just
11 the three of us -- I call my other two and then we would,
12 I would go pick them up in my car, and we would go to
13 the airport and bring them to town, and they would go
14 back in my car, tow one more, and that's the way we'd do
15 it.

16 Q Did you have anybody working for you full time?

17 A Well, I suppose these other two fellows you would
18 consider full time as far as whenever I needed any help.
19 I would always call them first. One fellow I don't
20 believe -- he didn't have another job, it kept him busy
21 enough that he was with me all the time whenever I
22 needed anybody.

23 Q How did you compensate them?

24 A I split the per car pay that I got. In other words,
25 whatever I got for a car I gave them half.

- 1 Q They weren't on a clock or time basis?
- 2 A No, nothing like that. In other words, what I was
3 actually doing was subcontracting because they would be
4 working actually on their own too. In other words, it
5 was my business as such, but they were still self-employed
6 as far as they went too because if I couldn't make it
7 and they wanted to take some ones by themselves, they
8 could. I would just tell them "Go ahead and take it."
- 9 Q When they picked up runs by themselves did they split the
10 cars with you?
- 11 A No, they kept everything -- if I wasn't involved myself
12 at all.
- 13 Q Did you or anyone working with you have to fill out any
14 kind of personal information forms with Avis?
- 15 A No.
- 16 Q Did you have any of the people who drove with you fill out
17 some forms?
- 18 A No.
- 19 Q Do you know if Avis kept a list of individuals who did
20 shuttling on call?
- 21 A Other than myself, no.
- 22 Q Did you have a regular list of people you would call?
- 23 A Yes, I did.
- 24 Q In addition to the two or three you are talking about,
25 regulars?

1 A Oh, yes, I kept a list of all the phone numbers and
2 addresses and preference, who to call first and so on
3 down the line.

4 Q When you moved the cars from one place to another was
5 there any kind of documents involved?

6 A There was a contract that Avis had and some of the others
7 would use just their regular rental contract and then
8 mark it as a "void as a contract" but simply identifying
9 the mileage and that the King Transport was moving the
10 car from one place to another.

11 MR. STILLMAN: I don't think we are
12 interested in anything that happened in other
13 companies. The fact that you worked for other
14 companies is of interest to us but not what
15 procedures you followed with anybody else.

16 Q (By Mr. Hipple) Let me show you what has been marked as
17 Defendant's Exhibit A and ask if you can identify that?

18 A Yes. That's one of our regular contracts. They would
19 fill that out and we would put in the mileage when we
got where we were going.

Q That is the same kind of contract you used during your
business?

A Yes.

Q Did you have one of those every time you moved a car?

A Yes.

- 1 Q Did you have to sign it every time?
- 2 A Yes. We would put King Transport Company and the driver
3 that took that particular numbered car we would have his
4 name on it so we could identify who drove which car. It
5 would be signed King Transport Company and over at the
6 side we would have the driver's name.
- 7 Q Would any one of the drivers sign King Transport Company?
- 8 A Oh, just -- they usually put "K.T.C." and they signed
9 their name, last initial.
- 10 Q Did you ever move a car you didn't have one of these?
- 11 A Only in lieu of it. They ran out once and we did use
12 one of their non-revenue tickets but it was still marked
13 as King Transport Company and signed by our ---.
- 14 Q Did you have any kind of oral or written contract or
15 agreement with Avis?
- 16 A Just oral. That if they needed me they would be glad to
17 call me.
- 18 Q Any specific terms, agreement?
- 19 A No. So much per car and anything out -- whatever distance
20 we were going to go. It was all prearranged how much
21 we charged.
- 22 Q Was the purpose of that contract ever explained to you?
- 23 A Except for being self-explanatory as it was written.
24 They said it was for anyone other than their regular
25 drivers or their regular workmen or employees, or whoever.

1 So it was something to do with the insurance as far as
2 I knew.

3 Q When you first started shuttling did you supply your
4 social security information, social security number, to
5 Avis?

6 A No.

7 Q Did you maintain a record of the social security numbers
8 of any of the people working under you?

9 A No. As I say, they were all self-employed.

10 Q Did Avis check your driver's license?

11 A Oh, yes. Yes. These were all -- I checked the people I
12 had too and they did check mine.

13 Q They just checked it the first time or was there a
14 periodic check?

15 A No, just the first time.

16 Q How about your driving record, accidents, speed tickets,
17 things like that?

18 A What do you mean how about it?

19 Q Did Avis look into that? Did they ask you about it?

20 A They may have looked into it without my knowledge but
21 there was no mention of it.

22 Q They didn't ask you anything specifically about it?

23 A No, just how long I had been driving and -- if I had any
24 cars, and so forth.

25 Q Did you make any attempt to check on the driving record

1 of any people you contacted?

2 A No, I just judged them more or less on the first time
3 they got in the car and if they did as they were told
4 and handled them very well. I tried to keep track of
5 the older people, keep more older people on the job than
6 just kids.

7 Q Was there any kind of interview or anything like that with
8 Avis before you started shuttling? Did you talk to
9 anybody?

10 A In my --?

11 Q In your personal case.

12 A Other than just asking them about making arrangements to
13 see if I could start doing this shuttling in preference
14 to whoever they had doing it before.

15 Q Did you have any kind of an interview process with people
16 you contacted to shuttle?

17 A Just asked them how long they had driven and explained
18 to them what the job entailed and if they would like to
19 do it.

20 Q Do you remember now basically what it was you explained
21 to them?

22 A First I would ask them for their license. I tell them
23 they would be driving rental cars, new cars, we would be
24 taking them from one place to another, and my system of
25 operation, that we all stayed together, they wouldn't take

1 off by themselves. We would take them from one place to
2 another, they would park the car, and turn it in there,
3 get their mileage and hand me the paperwork, and I would
4 turn it into Avis.

5 Q So they gave all the paperwork to you and you took care
6 of it with Avis? They didn't deal with Avis directly?

7 A No.

8 Q Was this same procedure followed throughout the time you
9 were doing this?

10 A Yes.

11 Q How was payment made? -- cash?

12 A It got to where we were moving so many that instead of
13 paying each trip or at the end of each day, for my
14 convenience it was all right with them if I just invoiced
15 them once a week.

16 Q Did you then pay the drivers?

17 A Yes.

18 Q How did you arrange that with them?

19 A Well, as I say, the few that I preferred and that could
do it -- there were about five of them, I guess, that
I paid once a week. And the rest I paid daily.

20 Q Cash at the end of the day?

21 A Yes.

22 Were there any expenses involved in this such as tolls
or gas?

- 1 A Oh, yes. Yes, I would have gas for, as I say, I had my
2 own expenses for running my car and any toll charges for
3 out-of-town runs or gas for the Avis cars, this was all
4 supplied by them. But the expenses for operating my car
5 I took out of my business receipts.
- 6 Q During the time you were doing this were there any longer
7 distance runs besides just the airport and town?
- 8 A Oh, yes, we went to Canada, went to Los Angeles,
9 California, San Francisco, Portland.
- 10 Q How did you handle that kind of trip?
- 11 A They gave us a car that needed to be taken to that area
12 and then we would drive them all back.
- 13 Q When you were doing that did it ever involve an overnight
14 stay?
- 15 A No, we always managed to come back. We would get down,
16 we would take turns driving down on those distances, so
17 we get there in short order and then we would pick up
18 the cars and head back and maybe after a couple or three
19 hours we would pull off somewhere and sleep for three or
20 four hours and go on some more and sleep for another hour
21 and come back.
- 22 Q How about meals on the way down?
- 23 A We would stop at our regular mealtime and eat.
- 24 Q Were you reimbursed for that by Avis?
- 25 A No. No, those were all our own expenses.

- 1 Q All that you were reimbursed were the toll charges and
2 the actual cost of moving?
- 3 A Gas and toll charges, gas for their cars.
- 4 Q Were you given a specific time within which to deliver
5 a car?
- 6 A Well, just as soon as we could get back on those. On the
7 first one we didn't know exactly how long it would take
8 us, but it was usually the next day we were back. Early
9 in the morning.
- 10 Q They didn't say specifically to be back within a certain
11 time?
- 12 A Oh, well, maybe by two days or something -- you know, I
13 mean, whatever it would be.
- 14 Q When you went down to, say, Los Angeles or up into
15 Canada was someone at the other end expecting you?
- 16 A Oh, yes, they would know we were coming for the cars.
- 17 Q Did they have any particular -- your name, the name of
18 the company?
- 19 A Yes. They would have the name.
- 20 Q Did you have the vehicle transfer contract with you at
21 the time you were there?
- 22 A No. No, only where we would pick up the car. They would
23 give us the contract at the place where the car was
24 picked up.
- 25 Q Did you have anything at all when you got down to, say,

1 Los Angeles or up to Canada, to indicate that you were
2 bringing the cars back for Avis? Anything to identify
3 you?

4 A Just myself.

5 Q But they had your name up there?

6 A Yes. Yes, they call and tell them to expect us.

7 Q Were you allowed to use a car for any personal purposes
8 on the way?

9 A No.

10 Q Did Avis make that clear themselves?

11 A Oh, yes.

12 Q Do you remember who it was, the circumstances of Avis
13 telling you that?

14 A There was never any occasion to really use one for
15 personal reasons. They would just say they would give
16 us a car to take to these out-of-state places or wherever,
17 I guess some of the local cars they needed would be a
18 certain place and we would take that one to get there,
19 that was all.

20 Q Was mileage on the car checked at either end of the trip?

21 A Both ends.

22 Q Who did that?

23 A I would. They would write the mileage -- we would get
24 it off the car and write it in and then -- no, it would
25 be on the ticket -- in picking it up, it would be on the

1 ticket, then we would enter it when we got there and
2 handed it into them.

3 Q Do you recall any kind of instructions or advice or
4 information given to you or anyone else, any other shuttlers,
5 by Avis on what to do, procedures to be followed?

6 A No, we got all the instructions from me.

7 Q Were you given any instructions or information of any kind?

8 A Where to take the cars.

9 Q Did anybody at Avis tell you what would happen if you
or one of your drivers got a speeding ticket or some other
kind of traffic ticket?

A No.

Q Do you know what would happen if you did?

14 A I expect we would pay. The guy that was driving, I mean.

15 Q Did Avis or anyone at Avis explain to you any procedures
16 to follow in the event of breaking down or an accident
17 of any kind?

18 No.

19 Did you ever ask them about where to call or what to do?
20 No, I just automatically would have called the nearest
21 Avis office if I had had any.

22 No set procedure though?

23 No.

24 Do you know whether you and any of the drivers you brought
25 in were covered by Avis auto insurance when you were

1 driving?

2 A No, I'm sure they weren't.

3 Q Did you ever discuss this with anybody at Avis?

4 A No.

5 Q Did you maintain any insurance yourself?

6 A No.

7 Q Do you know if the cars themselves were covered by
8 insurance?

9 A I just assumed that all car rental agencies had what they
10 call primary coverage. I didn't know; I have heard this
11 from my insurance company, that regardless they did have
12 coverage and that would take care of anything that would
13 happen at any time anyone was driving. I didn't know.

14 Q You never looked into it specifically?

15 A I never had to worry about it so I didn't.

16 Q You never had an accident when this came up?

17 A No.

18 Q Were social security, unemployment taxes or withholding
19 taxes taken out of the amount paid to you by Avis?

20 A No.

21 Q Did you take it out of the amount you paid to the
22 individuals?

23 A No, no.

24 Q Did Avis or anybody at Avis say anything to you about
25 Federal deductions such as this?

1 A No.

2 Q Did anybody ask you about it? -- any drivers, shuttles,
3 you used.

4 A No, they didn't seem to be concerned.

5 Q Did you ask anybody else about whether payroll deductions
6 should be taken out?

7 A No.

8 Q Do you recall now the names of some of the people you had
9 shuttling for you in that period? You mentioned two or
10 three specifically.

11 A Yes. There was an Edward James. Lots of first names.

12 Q You mentioned you had two or three.

13 A I had James and Frank -- what was his last name? And
14 Jerry. I can't remember his last name either.

15 Q I will show you a list of names of people who appeared
16 on some records of Avis for shuttling. Maybe you can
recognize some of them.

17 (Counsel hands document
to witness)

18 I recognize some of these employees in Avis.

19 Q Do you recognize any of them as people who drove with you?

22 A No. No.

23 Q You mentioned you had recognized some of those as employees
24 of Avis.

Colleen, she was one of the girls.

- 1 Q One of the counter girls or mechanics?
- 2 A Yes.
- 3 Q Do you know yourself if any of those people acted as
4 shuttlers off the clock?
- 5 A I never saw them doing it off the clock, no.
- 6 Q Did you ever see any advertisements in the newspapers
7 or anywhere else for shuttlers?
- 8 A No.
- 9 Q Did you ever place any yourself?
- 10 A No.
- 11 Q Where did you get most of the men?
- 12 A From the Casual Labor Office down on First Avenue.
- 13 Q You just walked down and asked somebody there?
- 14 A Yes. Looked them over and see what they look like and
15 see if they had driver's licenses and how old they were
16 and how long they had driven, and so forth.
- 17 Q Did you have any specific office yourself where these
18 people could contact you?
- 19 A Just my phone number, home or the answering service, and
20 they would call me.
- 21 Q Did they sometimes call you?
- 22 A Once in a while they would call to see if I had anything
23 doing that day. Some of those I didn't use very often.
- 24 Q Do you recall if you got anything else when you picked
25 up a car besides the keys and the vehicle transfer

1 contract?

2 A No. Nothing.

3 Q Were you or any of the other shuttlers you brought in
4 covered by health insurance or any other fringe benefits
5 of Avis?

6 A No.

7 Q Do you know if any of the other shuttlers ever filed claims
8 for any of these benefits?

9 A No.

10 Q Do you know if anyone who shuttled for Avis regularly
11 was given preference as a regular?

12 A Any of my people?

13 Q Yes.

14 A No.

15 Q It was just a first-come, first-served?

16 A Yes.

17 Q Except for the two or three --?

18 A Yes.

19 Q Was there a specific individual at Avis that you dealt
20 with on a regular basis in connection with shuttling?

21 A That I dealt with what?

22 Q Regularly, on a regular basis with respect to shuttling.

23 A Oh, yes. Usually the airport manager and whoever was
24 on the counter downtown.

25 Q Briefly, at any time you were doing this was there any

1 kind of identification or badge or uniform or anything
2 to identify you as shuttlers for Avis?

3 A No.

4 Q Are you familiar with any records that Avis maintained
5 to show the dates and amounts of your payments for
6 shuttling?

7 A No, only my own receipts that I have.

8 Q Did you sign a receipt of any kind when you got payment?

9 A No, just my endorsed check would be all.

10 Q What did you do with the vehicle transfer contracts?

11 A I kept them. I have a box "yea" big at home.

12 Q You kept the copies?

13 A Yes.

14 Q How many copies of it were there? An original and a
15 number of copies?

16 A Oh, when we were transporting cars?

17 Q Yes.

18 A As I recall, I think there were either two or three.
19 I can't swear to that.

20 Q Do you know where the different copies went?

21 A I got one. I don't know where the others went.

22 Q Where did you put them?

23 A Wait a minute -- they were in carbon copy when we signed
24 for the cars. Yes, we got two, that's right, because we
25 turned one in where we took the car and we got two copies

1 at the time of the pickup, and we would give one to them
2 wherever we deposited the car, and kept the other.

3 Q What happened to the original? Are you talking about
4 the original and copy?

5 A The original -- well, let's see now. I couldn't swear
6 to it. All I know is I got two. There may have been
7 three copies, there may have been one left at the office
8 where we picked up the car, which I think there probably
9 was. Yes, I think there were two carbons and they kept
10 one at the office where we picked up the car, they gave
11 us two copies, and I left one at the place of deposit and
12 I kept one.

13 Q And the check that you got, was it monthly?

14 A No, weekly.

15 Q Do you recall if there was anything on the check to
16 identify it as something for shuttling? -- identifying
17 numbers or symbols or something written on it.

18 A Except for other than they made it out to King Transport
19 Company I don't believe, I don't recall whether it said
20 for transporting cars or not. I'm not sure.

21 Q During the time you were doing this was any individual
22 who shuttled for Avis through you not allowed to do it
23 again?

24 A I never had anybody shuttle for me that worked for Avis.

25 Q I meant --

1 A Or did I understand that wrong?

2 Q Maybe you misunderstood me. During the time you were
3 doing this was anyone who had shuttled cars through you
4 for Avis not allowed to do it again?

5 A Oh, no. No.

6 Q Was the need for shuttlers a regular thing you could
7 predict each day --

8 A Yes.

9 Q -- or did it peak at times?

10 A There were peak days, yes. Mondays and Fridays were
11 usually peak days.

12 MR. HIPPLE: That is all I have.

13

14 CROSS-EXAMINATION

15 BY MR. STILLMAN:

16 Q Mr. Gosling, when you ran your business, King Transport,
17 you said before in your testimony that you got a business
18 license?

19 A Yes.

20 Q I show you a document and ask you to identify it.

21 A Yes, that's it.

22 Q That is the business license?

23 A Yes.

24 Q When was it issued?

25 A 1964.

1
2 (Plaintiff's Exhibit 1
3 marked for identification)

4 Q Now, Mr. Gosling, I show you two documents stapled
5 together and ask you to identify them.

6 A Yes, these are some of my daily record sheets from running.

7 Q For what day, if you can tell by looking at them?

8 A This is January 14, 1966, and January 10th.

9 Q Are those two sheets a synopsis of what went on on those
particular days?

10 A Yes. Yes, this is a running record.

11 Q Does that indicate they were shuttling, do you know, not
12 only for Avis but for other companies?

13 A Oh, yes.

14 Q Does that indicate that various people shuttled and got
15 paid certain amounts?

16 A It shows that they shuttled, I don't have their -- yes,
17 that's right, it is all totaled over here, yes.

18 Q And there is a white piece of paper attached to the two
19 work sheets. What is that?

20 A Well, it is the information from me to you as to what all
21 these short little abbreviations are.

22 MR. STILLMAN: Okay. Let's mark this, please,
23 as Plaintiff's Exhibit 2.

24 (Plaintiff's Exhibit 2
25 marked for identification)

1 Q Mr. Gosling, I have shown you another document. Would
2 you please describe it?

3 A This was one of the copies of our paperwork that we were
4 issued when we would pick a car up at a certain place
5 and transport it to another place for Avis.

6 Q What is that called?

7 A That is a vehicle transfer contract.

8 Q And that is an actual copy of one of the contracts that was
9 used by King Transport?

10 A Yes, it is.

11 Q During the years that we have been asking you about.

12 A This was dated the 14th of January, 1966.

13 Q And can you just briefly reflect what type of a
14 transaction occurred?

15 A Well, on here there is a description of the car, the
16 license number, and where we are taking it from. Where
17 we pick it up and where we deliver it to, the date that
18 we pick it up and the date that we deliver it and the
19 mileage that is on it when we pick it up and the mileage
20 that is on it when we deliver it.

21 Q Who signed for it?

22 A This particular one Edward James signed for it, being
23 one of the fellows that drives for me, and the one that
24 sends it out is signed for by an Avis employee.

25 Q Is there any indication of the King Transport name on it?

MAXINE T. ROBINSON
Court Reporter
1214 Hage Bldg.
Seattle, Washington 98104
MAin 2-6144

1 A Yes, our initials K.T.C.

2 (Plaintiff's Exhibit 3
3 marked for identification)

4 Q Mr. Gosling, I show you a booklet and ask you to identify
5 it, if you have ever seen it before?

6 A This is one of my invoice books that I would invoice my
7 car rental or people that I served.

8 Q What is the approximate period of the invoices which are
9 found in the book?

10 A These are 1966. January. Yes, January through March;
11 January and through April of 1966.

12 Q Is that the invoice book that you used to invoice the
13 companies, including Avis, which you invoiced once a
14 week, as you testified a few moments ago?

15 A Yes, it is.

16 (Plaintiff's Exhibit 4
17 marked for identification)

18 MR. STILLMAN: I will state for the record
19 that the attorney for the plaintiff will keep
20 possession of the documents marked as exhibits in
21 this deposition until such time as they are required
22 for trial.

23 (Witness excused at 1:50 p.m.)

24 Signature waived.

25 Notice of filing waived.

MAXINE T. ROE
Court Reporter
1214 Highway 99
Seattle, Washington
MAin 2-6241

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

CIVIL ACTION NO. 70-C-70

AVIS RENT A CAR SYSTEM, INC.,) [Filed April 9, 1973]
Plaintiff,)
-vs-)
UNITED STATES OF AMERICA,)
Defendant.)

300 Ainsley Building,
14 N. E. 1st Avenue,
Miami, Florida.

March 8, 1973.

APPEARANCES:

STUART B. STILLMAN, ESQUIRE,
Attorney for Plaintiff,
900 Old Country Road,
Garden City, N. Y. 11530

ROBERT J. HIPPLE, ESQUIRE,
Attorney for Defendant,
Department of Justice,
Washington, D. C. 20530

DEPOSITION

of

RONALD E. SEIBERT

Deposition of RONALD E. SEIBERT, witness
of lawful age, taken on behalf of the Defendant in the
above-entitled cause, wherein AVIS RENT A CAR SYSTEM,
INC., is Plaintiff, and the UNITED STATES OF AMERICA is
Defendant, pending in the United States District Court,
Eastern District of New York, Civil Action No. 70-C-70,
before Lee Madden, Certified Shorthand Reporter and
Notary Public, duly qualified and commissioned in and
for the State of Florida at Large, at 300 Ainsley
Building, 14 N. E. 1st Avenue, Miami, Florida, on the
8th day of March, 1973.

Thereupon,

RONALD E. SEIBERT

Witness, after first being duly sworn, was examined, and
testified on his oath as follows:

BY MR. HIPPLE:

Q State your name and current address, please.

A Ronald E. Seibert, 881 Ocean Drive, Key
Biscayne.

Q Your occupation?

A Florida Fleet Manager for Avis Rent A Car
System, Inc.

Q How long have you been employed by Avis?

A A little over thirteen years.

Q Have you been employed in any city besides Miami?

A Yes.

Q Tell me what cities you have been in and what positions you have held.

A Rental Agent, Minneapolis.

Q When was that? Do you remember?

A 1959. City Manager, Cincinnati, '60; Rental Agent in Los Angeles in '61, and San Francisco I was the Zone Manager, '63 to October of '65, and Zone Manager of New York from October '65 to January 1, 1967, and Miami Zone Manager from January 1, '67 to January 1, 1971, and Fleet Manager since then.

Q And in those various capacities with Avis, have you become familiar with the car shuttling operation of Avis?

A Yes.

Q Is that true in each one of the cities that you have been in?

A Yes.

Q We are talking specifically about the period from 1962 to 1966. Would you describe what the car shuttlers did, generally what their function was?

A They would haul cars from one point to another.

In San Francisco we used tractor-trailers, so we didn't have a shuttle team, as such. All cars were moved by trucks.

Q Is that true in any other city that you are aware of?

A It is true in Miami, and not true in New York.

Q Okay. Any other areas that you did not use a truck, approximately how often were shuttlers required, on the average?

A On a daily basis?

Q Whatever it was.

A Required daily, sometimes four hours, sometimes six hours, sometimes longer.

Q How many on a particular day would you estimate?

A In New York, are you speaking of?

Q In New York, yes?

A Some cities are bigger than others. I would say we used ten to twenty people a day sometimes.

Q Do you know how Avis contacted the shuttlers in the various cities that you are familiar with?

MR. STILLMAN: Let me make an objection as to the generality of the question.

From '62 to '66, since he indicated during those years he was in San Francisco or New York, confine your questions to those cities.

Q (By Mr. Hippie) Okay. When did you leave Los Angeles?

A I was there a short time, a year maybe, and arrived in San Francisco late '62.

Q A part of '62 you were in Los Angeles?

A Yes.

Q How did Avis contact any shuttlers used in those cities during '62 and '66?

A In Los Angeles we didn't use any. We were there for things other than normal business.

In San Francisco we contacted our truck

drivers who were Avis employees, and they were on an hourly basis, regular employees, and in New York we used the police and firemen to do shuttling, you know, when they weren't working.

Q How did you contact individual police and firemen?

A There was one guy they would call in Carterett, New Jersey.

Q Always the same guy?

A Yes, and we would call him, and he would gather up a bunch of guys and show up where we wanted him to go.

Q Was he in another business, or was he a fireman who happened to know people?

A It was another source of income for him and the guys who worked for him.

Q He was a policeman or fireman?

A Yes, he was a fireman.

Q When a shuttler was contacted, looking at the New York operation for now, the first time he came in, was he required to fill out any type of form with any personal information?

A No.

Q Did Avis itself maintain a list of individuals who had shuttled for Avis in the past in the New York area?

A No, every day it would be somebody different.

Q When a shuttler picked up a car and moved it to another location, did he have any kind of a document for moving the car?

A A Vehicle Transfer Contract.

Q Was that true everytime a shuttler moved a car?

A It had to be.

Q Let me show you what we have marked as Defendant's Exhibit A.

A That is an old one.

Q Is that a contract?

A Yes.

Q Is that one that would be in force in 1962 to 1966?

A Yes.

Q Do you know of any occasion when any

vehicle was moved by a shuttler without one of those documents?

A No.

Q Do you know -- if a regular, full-time employee of Avis, such as a Service Agent or Rental Agent, moves a car, would he use a regular contract?

A No, he would use a non-revenue ticket.

Q Can you describe the difference, if any, between a non-revenue ticket and vehicle transfer contract, the forms themselves?

A A non-revenue ticket is for use by employees only, and a vehicle transfer contract is used for an individual contract.

Q How did the forms differ?

A One specifically states it is to be used only by employees, the non-revenue ticket does, and the other, the vehicle transfer contract is a contract between Avis and the independent contractor.

Q How about the information contained in the rms?

A I am not really -- I haven't read one for sometime.

Q Do you know of any occasion when a shuttler has moved a car on a non-revenue ticket?

A An employee shuttler?

Q No, shuttlers such as we are talking about here?

A No, I don't.

Q Do you know of any occasion when a regular employee of Avis, such as a service agent, has moved a car on a vehicle transfer contract?

A No, I don't.

Q When a person came in as a shuttler, one of these policemen or firemen, did Avis ask him for his Social Security number?

A No.

Q Did anyone at Avis ask him for his driver's license?

A Yes, we required drivers licenses.

Q Was it inspected every time he drove?

A I believe it was left up to the head man to see that they had a current, valid driver's license.

Q By the head man, who do you mean?

A The man we would call for contact to bring

in a group.

Q Was his driver's license checked by Avis?

A To my knowledge, no.

Q Was he asked for his home address and telephone number?

A No.

Q Was there any kind of form that he had to fill out at all?

A None.

Q Did you ask for any references?

A None.

Q Was there any kind of an interview before he could shuttle?

A None.

Q To the best of your knowledge, and we are talking again about New York, would you describe the general steps that took place from the time Avis contacted the head man until the time the car was delivered to the destination where they went, and who they saw?

A Okay. We had a small re-conditioning center in Carterett, New Jersey, where we re-conditioned automobiles, and our man in New York would contact the

head shuttler, he would gather up a group of guys, come to that location, and pick up a car and they would go in our car to whatever location we needed to move cars. Say we had cars in Kennedy and had to go to Carterett, they would come to Kennedy, we would tell them where to arrive at, and it varied every day.

Q Would each one of these individual shuttlers get an individual contract?

A Yes.

Q Would each man get one for the shuttler, or would each shuttler get his own?

A I believe he had a pad, and he would pass them out and they would fill them out.

Q The individual shuttlers would fill them out?

A Yes.

Q What would they do when they arrived?

A They would put the miles, and the time, and close it out and . . .

Q So the head shuttler collected all of these?

A Yes.

Q What would he do with them?

A Present them for payment.

Q On a daily basis?

A I am not sure if it was daily or a two or three day period, depending on how many days we used them.

Q How were they paid then?

A By the trip.

Q Was the head shuttler paid and he paid the men?

A As far as I know, yes.

Q How was the amount fixed?

A The total amount?

Q Yes, the amount each man was paid?

A We would take the shuttle contracts, we had a fixed rate between Kennedy and Manhattan and Carterett and Newton, and they would write that amount on the ticket, and at the end of the day we would separate them by driver. We paid one man, and he disbursed it.

Q Was payment by check or cash?

A I believe it was by check, I am not sure.

Q Do you know who would be the payee of the check?

A The name?

Q Was the head shuttler?

A I am not sure. I think it was the head shuttler.

Q Do you recall the name of the head shuttler, or anyone who acted . . .

A I can picture him, but I can't remember his name.

Q Did you ever see any of the checks used to pay the shuttlers?

A No. I didn't handle those myself.

Q If there were any tolls or any other expenses involved in a particular shuttle, how was that handled?

A They had to have receipts from bridges, receipts for gasoline, receipts for tunnels, and they would accumulate them and attach them to the shuttle ticket. Say they were going to Manhattan, and they had a toll out of the tunnel, they would attach the ticket to that particular movement.

Q And Avis would reimburse them?

A Yes.

Q Was the head shuttler compensated any extra amount for his work as head shuttler?

A Yes.

Q How was he paid?

A I don't recall exactly, but I recall he received more per trip. He would get paid for every trip, in other words, more than the other fellows would get.

Q Would he drive a chase car?

A Yes.

Q Were the shuttlers given a specific route to follow from one point to another?

A No, they would go any way they wanted to go.

Q Were they given a specific time in which to be at the destination?

A No. We made them aware of the heavy peak period at a given location, and they would show up at their convenience, you might say.

Q I meant when they were actually moving a car, were they given a specific time in which to get the

car to the destination?

A No.

Q Were they allowed to use the car for any personal purposes on the way?

A No.

Q Were they told that specifically?

A I don't believe so, but I think they understood that.

Q Did anyone from Avis check the mileage on the cars at either end?

A Check the mileage when they checked it in?

Q When they checked out and when they checked in?

A Not to my knowledge.

Q Only the shuttler himself knew the mileage?

A Yes.

Q Can you think of any instructions, advice or information given to the shuttlers any time they drove a car for the first time that we haven't covered?

A Just by telling them how many cars we had to move. We would say, we had thirty cars, or fifty

cars. Other than that, there weren't any specific instructions.

Q Were they told what would happen if they got a speeding ticket?

A They had to pay their own ticket.

Q Were they told that?

A I am sure they knew that.

Q Did anyone from Avis explain that to them?

A No.

Q Were they told what to do if the car broke down or they had an accident on the way?

A I don't believe anyone told them what to do. They used their own common sense.

Q Did they normally travel in a group, four or five cars in a caravan from one point to another?

A Yes. Some would probably go their own way. Everybody had a different way of going to a certain place in New York.

Q Were the shuttlers covered by insurance while they were driving?

A By what?

Q By automobile liability insurance?

A No.

Q Were the cars themselves covered?

A The cars were covered.

Q Was the lack of coverage for personal
injury to themselves explained to the shuttlers?

A I don't know that it was.

Q Were Social Security, unemployment taxes,
withholding taxes deducted from the amounts paid the
shuttlers?

A No.

Q Was anything said to the shuttlers about
payroll deductions?

A No.

Q Do you know what was said when they asked
about payroll deductions?

A No.

Q Do you know any of the individuals who
were shuttling cars during that period?

A Do I know them now?

Q Yes?

A I can't remember their names.

Q Let me show you a list of names. I am not

going to mark it for identification.

That list of names came from the petty cash list from the warehouse in New York, Avis, showing the people who had shuttled cars at the time.

See if you can identify any of those.

A A couple of these look familiar, but I am not sure.

Q You don't recognize the name of the head shuttle in there?

A No. That is what I am looking for. I didn't know any of the others at all. They were just shuttlers employed. I can picture the guy, but I can't remember his name.

Q You don't see his name there?

A See, I didn't have a daily contact with these people.

Q Okay.

A I don't see it.

Q Were any of the individuals who were shuttling cars full time regular employees of Avis, such as mechanics or service agents, off the clock?

A No, never.

Q Were they allowed to do it -- full-time employees allowed to do that?

A No.

Q Did Avis ever advertise for shuttlers in newspapers or anywhere else to your knowledge?

A No, because this fellow would gather up his flock, you might say.

Q Were the shuttlers given anything when they got a car besides the keys and a vehicle transfer contract?

A Nothing.

Q Were the shuttlers covered by health insurance or any other fringe benefits?

A No.

Q Do you know of any shuttler that filed a claim for anything like that?

A No.

Q Do you know of any occasion when Avis used shuttlers other than through this one head shuttler you knew in Carterett?

A Not in New York, no, they were the sole movers.

Q Do you know if any shuttler ever had to share a part of his fee with anybody else?

A No.

Q Do you know of any shuttler who was ever approached to do that?

A No.

Q Did the shuttlers have any kind of identification or a badge or anything to identify they were Avis shuttlers?

A No.

Q Did they wear a jacket or any kind of uniform?

A No.

Q During that period of time, the time we are talking about in New York, did the regular full-time employees of Avis, such as service agents, have an identification card or badge?

A Full-time employees, around the clock?

Q Yes?

A They had an I. D. card.

Q During this time, '62 to '66?

A During the last Avis started the I. D.

cards for employees.

Q During that same period in New York, were the full-time, regular employees of Avis working around the clock required to wear a uniform while they were working, service agents?

A Yes.

Q Do you know of any records maintained by Avis showing the dates, amounts, and purpose of the payments of the shuttlers besides the transfer contracts?

A Other than a check.

Q And you have no way of identifying or describing that check?

A No, I don't.

Q Did the shuttlers, or the head shuttler, have to sign a receipt of any kind for payment?

A No, I don't believe so.

Q Do you know of any shuttler or any individual who had shuttled cars for Avis in the past who was refused or not allowed to do it again for any reason?

A I don't know of any specifically, no.

Q Getting back to the San Francisco operation, would you describe how the cars were moved, to

your knowledge, out there?

A They had -- right after I arrived there, we bought two tractor-trailers, seven car rigs, and they were driven by full-time employees, and they would move cars by way of truck between the airport, downtown, Oakland and San Francisco, and we never used -- we never had a shuttle team in San Francisco as such. The union out there prohibits such activity.

Q The truck drivers themselves would pick up the cars and drive them on the back of the rig?

A Right.

Q And you say that same kind of method of operation is used here in Miami?

A Yes.

Q Do you know how long it has been used in Miami?

A Quite a long time. I would say since '63 or '64.

Q You had no familiarity with the Miami operation prior to the time you came down here?

A No, I never worked here before.

MR. HIPPLE: That is all I have.

MR. STILLMAN: No questions.

LEE MADDEN - COURT REPORTER, MIAMI, FLORIDA

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

Civil Action No. 70-C-70

AVIS RENT A CAR SYSTEM, INC.,) [Filed April 9, 1973]
Plaintiff,)
-vs-)
UNITED STATES OF AMERICA,)
Defendant.)

300 Ainsley Building,
14 N. E. 1st Avenue,
Miami, Florida.

March 8, 1973.

APPEARANCES:

STUART B. STILLMAN, ESQUIRE,
Attorney for Plaintiff,
900 Old Country Road,
Garden City, N. Y. 11530

ROBERT J. HIPPLE, ESQUIRE,
Attorney for Defendant,
Department of Justice,
Washington, D. C. 20530

DEPOSITION

of

RUFUS E. RICHARDSON

Deposition of RUFUS E. RICHARDSON, witness
of lawful age, taken on behalf of the Defendant in the
above-entitled cause, wherein AVIS RENT A CAR SYSTEM,
INC., is Plaintiff, and the UNITED STATES OF AMERICA is
Defendant, pending in the United States District Court,
Eastern District of New York, Civil Action No. 70-C-70,
before Lee Madden, Certified Shorthand Reporter and
Notary Public, duly qualified and commissioned in and
for the State of Florida at Large, at 300 Ainsley
Building, 14 N. E. 1st Avenue, Miami, Florida, on the
8th day of March, 1973.

Thereupon,

RUFUS E. RICHARDSON

Witness, after first being duly sworn, was examined, and
testified on his oath as follows:

BY MR. HIPPLE:

Q State your full name and current address,
please.

A Rufus E. Richardson, 9430 Little River
Drive, Miami, Florida.

Q As Mr. Stillman mentioned, we are talking
about the period '62 to '66.

During that period of time did you have any connection with Avis Rent A Car?

A I worked for them.

Q In what capacity?

A As a service agent and as an assistant truck driver part of the time.

Q In Miami?

A I worked out of Miami. I mean, I was driving trucks, I might have driven from here to Tampa, Orlando or Jacksonville.

Q Miami was your base?

A Right.

Q How long did you work for Avis?

A I worked for Avis from December 22, 1961 until I believe it was July 21, 1972.

Q You are not employed by Avis now?

A No, I am not.

Q Are you familiar with the car shuttling or car moving operation of Avis?

A Pretty good. I mean, I worked in Car Control which is moving the cars for about three years or four years.

Q Would you describe how the cars were moved, how Avis went about shuttling the cars?

A Well, they moved some by car carrier, and they might move some by driving them short distances most of the time.

Q Who were the drivers? Where would they get the drivers, let's put it that way?

A Are you referring to the trucks, or to the . . .

Q The individual driver when one car was moved?

A There was no special one for the individual driver, because once or twice a year you got the one person who might be in that area one time, and another person would be in it another time, because no person was put in a specific position to stay. I mean, the guys who had the most seniority would be where they wanted to be.

Q Were they full-time employees of Avis who drove the cars?

A Yes, they were full-time employees. Avis never fooled with any casual labor.

Q You don't know if they picked up a casual guy off the street to move a car downtown or something like that?

A No, they were regular employees.

Q Describe how the cars were moved with the truck.

A Well, they were moved wherever Avis wanted them to. If they wanted a load of cars to go to South Beach, if they wanted a load to go to Fort Lauderdale, if they wanted a load to go to West Palm Beach, that is about as far as we took cars. We didn't distribute cars any further than West Palm Beach and back. If we were going any further than that, we were going to get cars to bring back because Miami needed them, but we didn't take them any further than West Palm Beach.

Q You say you yourself drove the truck on occasion to pick up cars?

A Sometimes, yes. I wasn't number one driver, but I did drive.

Q When you went to pick up cars with the truck, were there any kind of documents involved to move the cars to show they were moved?

A Yes, we had to write up non-revs on every car that we moved, and if we went from here to West Palm Beach, we put APO which meant airport, from airport to West Palm APO which meant West Palm Airport, and we also had to write up a non-rev on the truck to show where the truck moved. If it left here, went to Fort Lauderdale, we wrote up a non-rev from Fort Lauderdale, and another one from the airport.

We kept a record of everywhere we went.

Q If you picked up six cars with the truck, you would have six non-rev tickets, one for each car?

A We left one at where we picked them up at.

Q One copy?

A Right, and we brought back one with us. We left one there, and we brought one back that would show where the car was moved from and where it went to.

Q Was this method of operation, using the trucks to pick up the cars, the whole time you were with Avis?

A The whole time that I drove.

Q Do you know how many trucks Avis was running at that time to pick up the cars?

A They didn't have but two at a time, I don't think, two car carriers at a time. At one time they didn't have one, but . . .

Q Did you ever move a car with a Vehicle Transfer Contract instead of a non-revenue ticket?

A You would move it with that. Say you would pick up a car in Orlando, they write up your car, what you are going to pick up, you have a copy, but they might write up a vehicle contract. On our regular car, we wrote up a non-rev.

If they left a car for you to pick up, they left a copy in the car, and you would pick up that contract, but the record still had to come back. Every car we moved a record came back to the office, whether it was on a vehicle contract or a non-rev, it still came back the same way.

Q Do you remember any case where you moved one car or a number of cars and you were paid an additional amount for moving that car?

A No, we didn't move one car at a time. If we took cars in, we took a whole load unless you went out of town or something, and that wouldn't happen because

they wouldn't send a truck from here to Orlando to pick up two cars, they would pick up a whole load.

Q Were you ever paid any extra for picking up cars other than your regular hourly salary?

A We had a standard rate. We had a standard amount that we were paid.

Q Just your regular salary?

A Yes.

Q You weren't paid any extra for picking up cars?

A No.

Q Were you picking up the cars only on the regular working hours, five days a week, eight hours a day, or did you work on weekends?

A We did it sometimes on weekends when we were busy. We didn't have any regular working hours. If we were working around the clock, maybe I wouldn't work that day, and we had cars to pick up, but I might work that night, but it was regular work, but it wasn't no certain time. I might work in the morning the next day, I might work from 3:30 to 7:00, and then from 11:00 to 7:00, around the clock.

Q Were you supposed to work a certain number of hours a week, forty hours a week?

A We were guaranteed 42½ hours.

Q Whether you were there or not, you got the 42½ hours?

A No, not whether you were there. You were guaranteed 42½ hours. Like some companies say, "I don't need you but 30 hours," and you have to go home. We were guaranteed 42½ hours, regardless of how much work we had.

Q If they only needed you for 35 hours, you still got paid for 42½ hours?

A We were there, they couldn't send us home, we had to be on the job, but we were guaranteed that many hours.

Q Did you punch a time clock when you came in?

A Yes, we did.

Q And when you left?

A Yes.

Q Were you paid every two weeks or every week?

A When I first started working for Avis we were paid every week, and then later on we started getting paid every two weeks.

Q Was it a payroll check?

A Yes.

Q Was Social Security taxes and other payroll deductions taken out?

A Yes.

Q When you first started working for Avis, did you fill out an application for them?

A Yes.

Q Did you give them your Social Security number?

A Yes, I did.

Q Did they check your driver's license?

A Yes.

Q Did you have to get a special driver's license for the job?

A I had a chauffeur's license all the time. I had a chauffeur's license when I started working for them.

Q Did they check your driver's license on

a regular basis?

A Yes, to see if you had one and see if it was valid.

Q So for that period of time, every six months they would check your license, or was it just at first when you started working there?

A Well, I wouldn't say they checked them every six months. I wouldn't say they checked them every six months, I mean, because if you lost your driver's license, the State Trooper or the Government is going to send after you, but they checked to see if you have any license.

Q Did they check your driving records for speeding tickets, accidents, and things like that?

A Well, we had to fill out an application. I guess they went about that in their own way. I didn't have to bring any in. Just like you have to fill out when you get insurance or something, they check behind it to see if it is true.

Q Did you have any kind of identification card or badge or anything like that while you were workin for Avis to show you were an Avis employee?

A Yes, I did.

Q Do you remember when Avis first issued that to you?

A A card showing that I was an Avis employee?

Q Some kind of identification?

A They issued us a card every six months to show that we were an Avis employee. It had a clock number on it, like mine was 1157, and everywhere I went I said, "I am picking up a car for Avis," and I would show the card to prove I was an Avis employee.

Q Did you get that when you first started working for Avis?

A I don't think they had the system when I first started, but it went on for many years. I don't remember if they had it when I first started or not. I am not sure.

Q Did you have to wear a uniform or jacket of any kind?

A Yes, sir.

Q You had to wear it?

A Yes, sir.

Q Were you covered by auto liability

insurance of Avis while you were driving cars and trucks?

A Yes.

Q Were you covered by health insurance and any other fringe benefits by Avis?

A Yes, we were -- yes, I was.

Q Was there one person at Avis in charge of the moving of the cars from one point to another?

A In Car Control, yes. I mean, you had a person there over distribution or whatever it is that took care of moving the cars from one place to another one, yes.

Q Were you or anyone else working for Avis during that period of time a member of a union?

A We all were, yes.

Q What union was that?

A Teamsters.

Q Was anyone working in a similar job to you for Avis not a member of the union?

A Not that I know of. There might have been some that I didn't know of, but I thought everybody belonged to the union. I mean, that is my knowledge, that I knew.

Q Do you know if there was a contract or an agreement between Avis and the union?

A Yes, there was.

MR. HIPPLE: I think that is all I have. Can we get a copy of the agreement during that period?

MR. STILLMAN: Agreed.

THE WITNESS: I still have some of the copies of the agreement at home. I kept a copy of the contract, because I wanted to know what was right and what was wrong.

Q (By Mr. Hipple) Do you know if there was anything in that union agreement contract that prevented Avis from using casual labor in moving cars, or would you remember?

A I don't think so. It was a statement in the contract that said you couldn't have -- they say you couldn't have -- not bob-cats, but part-time, you couldn't have part-time labor. They say if you have to work more than 26 hours a week -- have you read the contract?

MR. STILLMAN: I have never seen it.

THE WITNESS: If you worked more than 16

hours, I believe you were working enough to be a regular helper or something. I don't know, but I don't think this involves casual, this was part-time. I don't think there is anything in the contract that says anything about casual help.

MR. HIPPLE: We will get a copy of it.

Thank you.

(Witness excused.)

* * * *

[Reporter's Certificate omitted in duplicating]

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

• • • • •
AVIS RENT A CAR SYSTEM, INC. . CIVIL ACTION
VS. . NO. 70-C-70
UNITED STATES OF AMERICA . [Filed April 9, 1973]
• • • • •

Deposition of Dudley Truett Pope,
522 Houma Boulevard, Metairie,
Louisiana, taken at 500 St. Louis
Street, New Orleans, Louisiana,
commencing at 10:30 o'clock a.m.,
on March 7, 1973.

Dietrich & Pickett, Inc.
Stenotypists

333 ST. CHARLES AVENUE, SUITE 1221
NEW ORLEANS, LOUISIANA 70130-522-3111

APPEARANCES:

FOR THE PLAINTIFF:

STUART B. STILMAN, ESQ.
ATTORNEY AT LAW
900 OLD COUNTRY ROAD
GARDEN CITY, NEW YORK 11530

FOR THE DEFENDANT:

ROBERT J. WHIPPLE, ESQ.
ATTORNEY AT LAW
TAX DIVISION
DEPARTMENT OF JUSTICE
WASHINGTON, D. C. 20530

B. L. PICKETT,
COURT REPORTER.

....000...

S T I P U L A T I O N

IT IS STIPULATED AND AGREED by and between the parties that the testimony of DUDLEY TRUETT POPE is being taken at the time and place hereinbefore noted; that the testimony may be taken down in shorthand (Stenotype) by B. L. Pickett, Court Reporter, and by him transcribed, or transcribed under his supervision. Formalities as to signing, sealing, certification and filing being waived. All objections, except those as to the form of the question, shall be reserved until time of trial.

1 of the cause.

2 IT IS FURTHER STIPULATED AND AGREED
3 that the witness may be sworn by B. L. Pickett,
4 Court Reporter.

5

6 DUDLEY TRUETT POPE,
7 having been first duly sworn, was examined and
8 testified as follows:

9 EXAMINATION

10 BY MR. HIPPLE:

11 Q State your full name and address.

12 A Dudley Truett Pope, 522 Houma Boulevard,
13 Metairie, Louisiana,

14 Q Your current occupation?

15 A I work for National Air Lines, Ramp Agent.

16 Q Were you employed during the period from
17 1962 to 1966?

18 A Well, yes, I started in '63, actually.

19 Q Where were you employed then?

20 A At 643 North Rampart with Avis.

21 Q With Avis?

22 A Yes.

23 Q In what capacity?

24 A Supervisor.

25 Q Supervisor of what part of Avis?

1 A The rental counter.

2 Q In that position as supervisor did you
3 become familiar with the car shuttling
4 operation of Avis?

5 A Yes, sir.

6 Q Will you describe what individuals did
7 as a shuttler for Avis?

8 A Drove cars, drive cars back and forth from
9 the airport, whichever, if they logged
10 cars downtown, bring them to the air-
11 port, or vice versa.

12 Q Can you estimate approximately how often
13 it was necessary to have a car moved
14 by a shuttler during the week or
15 during the day or whatever other
16 period?

17 A Well, it is kind of hard to say, really.
18 Probably, I will say, three or four
19 days out of the week.

20 Q Was the need for more than one shuttler?

21 A Oh, yes.

22 Q Is there any way you could estimate how
23 many in this three or four days,
24 five, ten?

25 A Oh, I will say about five a day, five

1 shuffles.

2 Q Was all the shuttling within the New
3 Orleans area or was there any long
4 distance shuttling between different
5 cities?

6 A There is a few times they shuffle out of
7 Baton Rouge and Gulfport, Mobile,
8 nothing, you know, too much beyond
9 that.

10 Q Do you know how the individuals that did
11 the shuttling found out about it?

12 A It is usually some of the men who work in
13 the back, friends of theirs will
14 just be hanging around with nothing
15 to do, so we will let them --

16 Q Strictly a word-of-mouth thing?

17 A Right. -- until they got another one.

18 Q Do you recall if you or anyone else at
19 Avis explained the shuttling opera-
20 tion to the individuals when they
21 first came in?

22 A How do you mean?

23 Q Well, any instructions or information about
24 what they had to do?

25 A No, just bring the cars back, that was

1 about it.

2 Q Did they have to fill out any personal
3 information forms before they could
4 shuttle?

5 A No, we just take the driver's license and
6 keep a little file with their names
7 and driver's license number. When
8 they brought a car back, they use the
9 regular vehicle transfer contract.

10 Q What kind of file was this that you are
11 talking about?

12 A Well, not necessarily a file, just kind
13 of write down on a piece of paper
14 and maybe stick it on the wall.

15 Q A list of the people who had done
16 shuttling in the past?

17 A Right.

18 Q Did you keep their phone number?

19 A Sometimes, but they change like night
20 and day.

21 Q You mentioned the vehicle transfer con-
22 tract, did you explain what that was?

23 A That was for people that weren't on the
24 clock, as I say, just shuttlers that
25 come in, you know, that are not

1 employed with Avis.

2 Q Let me show you what has been marked as
3 Exhibit A and see if you can identi-
4 fy that. Again, we are talking
5 about '62 to '66.

6 A Right, yes, that is what the shuttlers
7 usually use.

8 Q That is a vehicle transfer contract that
9 was in use at the time?

10 A Well, it has been revised more or less
11 but it is basically the same thing.

12 Q Same information?

13 A Yes, sir.

14 Q What was the purpose of that, the best
15 of your recollection?

16 A What?

17 Q Why did Avis use that particular form?

18 A For people who wasn't on the clock.

19 Q For regular full-time employees, me-
20 chanics or service agents or someone
21 else who moved a car, what kind of
22 document would they use?

23 A Non-revenue.

24 Q And how would a non-revenue ticket differ
25 from a vehicle transfer contract?

1 A Well, non-revenue was for people that
2 were on the clock.

3 Q Now about the information contained in
4 the two, was there a difference in
5 any way?

6 A On the non-revenue ticket it would be
7 people who were on the clock that
8 would be covered by insurance,
9 whereas, on the vehicle transfer
10 they wouldn't be, as far as I know,
11 I never really went into it.

12 Q To your knowledge, did a shuttler ever
13 refuse to sign a vehicle transfer
14 contract?

15 A No.

16 Q Do you know of any case where a shuttler
17 moved a car without a vehicle
18 transfer contract having been signed
19 first?

20 A Not that I recall.

21 Q Do you recall any occasions when a
22 shuttler moved a car on a non-revenue
23 ticket?

24 A No, not to my knowledge.

25 Q When a shuttler came in for the first time,

1 or at any time, was he asked for a
2 Social Security number?

3 A No.

4 Q You indicated he was asked for his
5 driver's license?

6 A Yes.

7 Q Was he also asked about his driving
8 record, accidents, speeding tickets,
9 things like that?

10 A No, not really.

11 Q Was any kind of form that was used for him
12 to fill out?

13 A No, not as I recall. I never did it,
14 myself.

15 Q When a person came in looking for regular
16 full-time employment, was his
17 driver's license and driving record
18 checked, if you know?

19 A Well, his driver's license was. I don't
20 know if it states on the form where
21 you have a driving record or not,
22 I don't believe it does.

23 Q Was the driving license of a shuttler
24 checked every time he drove a car or
25 he drove more than once --

1 A Usually they were because they, seems
2 like they expire, and things like
3 that. I don't know. Avis tried to
4 check them but --

5 Q Was a shuttle asked for his home address,
6 telephone number, usually?

7 A Well, they usually put that on the con-
8 tract.

9 Q The vehicle transfer contract?

10 A Right.

11 Q Was he asked for any references?

12 A No.

13 Q Was there any kind of an interview before
14 he is allowed to shuttle?

15 A No.

16 Q The best you can recall and the best of
17 your knowledge, would you describe
18 the general steps that took place
19 from the time one of the shuttlers
20 was contacted right up to the time he
21 delivered the car to the destination,
22 where he went, the documents in-
23 volved, checking procedures?

24 A Well, I would just say, just try to call
25 them up, whoever you can find, and he

1 would generally come down and we
2 would fill out a form for him to take
3 a car, you know, maybe a damaged car
4 to the airport and bring a good car
5 back down, and both times he would be
6 under vehicle transfer contract.

7 Q Was there a check-in procedure at the air-
8 port when he got there?

9 A Right, he is bringing the miles in on the
10 car and time stamp it in, and the
11 same thing coming back out, put the
12 miles out and the time he went out.

13 Q Do you know how these individuals were
14 paid, whether it was cash, check?

15 A It was cash.

16 Q Was it the end of each time they drove a
17 car or was it the end of the day?

18 A Usually every time they drove a car. It
19 would get kind of confusing after a
20 while.

21 Q They turned in the vehicle transfer con-
22 tract and they got paid?

23 A Right.

24 Q Do you know how the amount of the compen-
25 sation was fixed?

1 A At that time this to and from the airport
2 was just a round trip was a dollar a
3 car, I believe it was.

4 Q Now about for the longer trips to Baton
5 Rouge or something like that, do you
6 know how that was set?

7 A I think Baton Rouge at that time was about
8 \$5.00, as I recall.

9 Q Do you know of any occasion when it was
10 done on a mileage basis?

11 A Pardon me?

12 Q Do you know of any occasion when it was
13 done on a mileage basis, six cents a
14 mile, something like that?

15 A Not with the cars, I don't think so. I
16 really couldn't say for sure. It is
17 usually just a flat rate.

18 Q Were there any expenses involved, tolls,
19 gas, anything like that?

20 A They would, Avis would usually pay the
21 tolls, which didn't amount to too
22 much, and they would also pay the gas.

23 Q Were these individuals given a specific
24 route to follow?

25 A Well, yes, you know, just come, pick up the

1 car and come straight back, you
2 know, the shortest way back, usually
3 the same way they went.

4 Q Were they given a specific time in which
5 to be back?

6 A Within the however long it takes; in Baton
7 Rouge about a couple of hours, two or
8 three hours.

9 Q Are they allowed to use the car for any
10 personal purposes on the way?

11 A No.

12 Q Were they told that?

13 A I don't know.

14 Q You never did it yourself?

15 A No. I figured they would come back, you
16 know. If they stopped off, you
17 don't know anything about it, but --

18 Q How about picking up passengers on the way
19 carrying them along?

20 A Well, they are not supposed to.

21 Q Were they told that?

22 A I don't know.

23 Q You mentioned that the mileage on the car
24 was checked at each end. Who would
25 check the mileage, would that be the

1 shuttler, himself?

2 A Well, usually when they had, they had the
3 list of the cars, they would usually
4 have the correct mileage, the last
5 mileage on the little card file they
6 kept, and as the shuttler would bring
7 the mileage in on the car he was
8 taking out, you know, it would com-
9 pare with the mileage you had. If it
10 was a little wrong, you go out there
11 and check it yourself.

12 Q Can you think of any instructions, advice,
13 information given to the shuttler at
14 any time that we haven't covered, any-
15 thing else they were told?

16 A No, not offhand.

17 Q Were they given any information or instruc-
18 tions on what would happen if they
19 got a speeding ticket on the way?

20 A Well, just that Avis wouldn't be responsi-
21 ble for their ticket.

22 Q How about if the car broke down or they
23 had an accident on the way, were they
24 given a procedure to follow?

25 A Just call Avis and the police.

1 Q Were they told that or is this something
2 sort of assumed that they would do?

3 A I guess more or less assumed, really.

4 Q They weren't set instructions that the
5 shuttlers were given every time they
6 went out?

7 A No.

8 Q Do you know if the shuttlers were covered
9 by insurance maintained by Avis,
10 auto insurance?

11 A No, I don't think so. I think that form
12 there relieves Avis of anything like
13 that.

14 Q Were the cars themselves covered by auto
15 insurance?

16 A As far as I know, they were.

17 Q Was this coverage or lack of coverage
18 explained to the shuttlers before
19 they left?

20 A I don't think so, no.

21 Q Do you recall any occasion when a shuttler
22 asked about it?

23 A No.

24 Q Do you know whether Social Security, un-
25 employment taxes or withholding taxes

1 were taken out of the amounts paid
2 to the shuttlers?

3 A I don't think so.

4 Q Was anything ever said to the shuttlers
5 about payroll deductions?

6 A Not as I recall.

7 Q Do you recall any of them asking about pay-
8 roll deductions?

9 A No.

10 Q Do you recall any individuals who did the
11 shuttling on a regular or steady
12 basis more than two or three times?

13 A Well, usually one guy would be kind of a
14 regular after, you know, say a couple
15 of months at a time, two or three
16 months, maybe. But he would still be
17 just, you know, like a regular
18 shuffler, get a dollar a car.

19 Q Do you know any of the people who were
20 shuttling cars during that period of
21 time, can you recall any of them?

22 A Well, let's see, Lloyd Wright.

23 Q Do you know where he is now?

24 A I don't know, I haven't the slightest. I
25 don't know really, there are a few

E7

1 first names but that doesn't mean
2 anything. I don't know if that is
3 the right name or not, really.

4 Q Do you recall if any of the people
5 shuttling cars were full-time em-
6 ployees of Avis, such as a mechanic
7 or service agent or something like
8 that?

9 A Well, during the day when everybody is on
0 the clock if one of the stations got
1 low on cars, then everybody would
2 more or less drop what they were
3 doing and take cars out. They would
4 be on non-revenue tickets.

5 Q Were they compensated any additional
6 amount for doing that?

7 No.

8 Do you know any full-time employees of
9 Avis who would do this off the clock,
0 weekend or after they were through
1 with their regular shift?

2 Q Not if they could help it.

3 Q Did Avis ever advertise in the newspaper
4 or anywhere else for shuttlers that
5 you know of?

1 A No.

2 Q Were the shuttlers given anything else
3 when they got a car besides the keys
4 and the vehicle transfer contract?

5 A No, not unless they had something they
6 wanted to deliver to the airport or
7 downtown.

8 Q There was nothing else they were given
9 regularly?

10 A Not that I recall, no.

11 Q Were the shuttlers covered by health in-
12 surance or any other fringe benefits
13 maintained by Avis?

14 A Not to my knowledge, no.

15 Q Do you know of any shuttler who ever filed
a claim for any fringe benefits?

A I don't think so.

Q Was anyone who shuttled regularly frequent-
ly given preference as a regular?

Pardon?

Was anybody who shuttled on a frequent
basis given preference as a regular
shuttler? If there were only three
cars and four or five people there,
would the regular get preference on

1 it?

2 A Not really.

3 Q First come first served?

4 A First come first served.

5 Q Do you know if any shuttler ever had to
6 share a part of his fee or compen-
7 sation with anybody else?

8 A No.

9 Q Do you know of any that were ever approach-
10 ed to do that?

11 A I wouldn't think so, no.

12 Q Is there a foreman or a head shuttler or
13 someone like that who ran the opera-
14 tion?

15 A Not really, no.

16 Q Was there any one individual that you or
17 anybody else at Avis would contact
18 at a particular time if you needed
19 shuttlers?

20 A Yes.

21 Q How would that work?

22 A Well, I would just, as I say, sometimes
23 you had the phone numbers there, you
24 would check one of the guys in the
25 back to see if he knew anybody that

1 wanted to haul cars and they would
2 say call so and so, or give the num-
3 ber and I would call them up and tell
4 them to come on down.

5 Q To continue with that same line, if you
6 needed, say, five or six shuttlers,
7 is there any one person at a particu-
8 lar time you could call up and say,
9 "I need four or five people down here
10 to shuttle cars," or did you have to
11 call four or five separate people?

12 A Sometimes you would call one guy and ask
13 him if he happened to know anybody
14 else that wanted to hike cars and
15 sometimes he would and sometimes he
16 wouldn't.

17 Q During this period that you were there
18 there was no period of time when there
19 was one individual you could always
20 call and he would come down with as
21 many people as you needed?

22 A Rare occasions it would happen, yes.

23 Q But not as a regular thing?

24 A No. If he happened to catch it just right
25 and he had a group around him, he

1 would bring them on down.

2 Q Were the shuttlers given any kind of
3 identification card, badge, or any-
4 thing else to identify them as a
5 shuttler for Avis?

6 A Not that I recall, no.

7 Q Would they have anything at all, if they,
8 for instance, got stopped by the po-
9 lice, to indicate that they had the
10 car?

11 A Just the vehicle contract.

12 Q Nothing besides that, no other kind of
13 documents or identification?

14 A No, that should be all they needed.

15 Q During that same period of time did the
16 regular full-time employees of Avis
17 have any kind of identification?

18 A The full-time employees?

19 Q Yes, if they were driving a car.

20 A Well, they had a little Avis I.D. I don't
21 think they brought that in until
22 about, I think they started with the
23 I.D. card about, oh, five or six
24 years ago, I guess.

25 Q Do you recall what records were maintained

1 by Avia to show the dates and the
2 amounts, purpose of payments of the
3 shuttlers besides the vehicle con-
4 tracts, if there were any?

5 A Just they paid them on a petty cash voucher.

6 Q Do you recall what that petty cash voucher
7 looked like?

8 A A little white form that showed the date
9 and the man who it was being paid to
10 and the amount paid, and then down
11 at the bottom he signed his name.

12 Q Was it a form presented particularly for
13 the shuttling operation or was it
14 just a standard petty cash form?

15 A It was a regular petty cash form.

16 Q Was there any kind of number or identi-
17 fying symbol on the form itself?

18 A Yes, I am pretty sure it had a form or
19 number.

20 Q Was there anything on it or any way to
21 indicate on the form itself that it
22 was a shuttling payment, a payment
23 connected with the shuttling opera-
24 tion?

25 A Yes, we just put "vehicle transfer," et

1 [CONTINUE](#)

2 Q . Did the shuttler sign the form when he was
3 paid?

4 A Yes, sir.

5 Q Did anybody from Avis sign it or initial
6 it? 15

7 A Well, whoever made out the voucher, it
8 had his number at the top of the
9 voucher.

10 Q His employee number?

11 | A Yes.

12 Q Do you happen to recall what your employee
13 number was?

14 | A 3874.

15 3874?

16 A Yes, sir.

17 Q Do you know of any individual who would
18 shuttle cars for Avis in the past
19 who was refused or not allowed to
20 do it again?

21 A Well, yes, they had a couple of times
22 where the guy got in a wreck, maybe
23 it was his fault. I think there were
24 a couple instances like that.

25 Q Do you recall how he was told he couldn't

1 do it again or who did it, who said
2 he couldn't drive any more?

3 A No, usually if it was his fault, you know,
4 if he run into somebody, they would
5 tell him to hit the road.

6 Q Who would tell him, though, any one
7 particular person?

8 A Well, I would just tell him he couldn't
9 shuffle any more. I might have did
10 it or Mr. Spredley might have did it.
11 It has been a while ago.

12 Q Was the need for shuttlers a regular thing
13 or were there certain days in the
14 week you needed shuttlers? You
15 mentioned before three days a week.

16 A Well, it is really hard to say, really.
17 If they needed a car, whoever needed
18 cars, if they got real low on cars,
19 well, like say Friday was one of the
20 days they would usually shuffle cars,
21 or a Monday.

22 Q On one of those days, a Friday or a Monday,
23 would people who would shuttle cars
24 just come down to Avis and see if they
25 needed any cars moved?

1 A Yes, sometimes they would call in, or say
2 they come down and hang around and
3 wait.

4 MR. HIPPLE:

5 That is all I have got.

6 EXAMINATION

7 BY MR. STILMAN:

8 Q Isn't it true, Mr. Pope, that when the
9 shuttlers were given the keys to a
10 car and a VTC that they weren't told
11 anything else except get the car to
12 the airport, assuming they were down-
13 town?

14 A Yes, sir.

15 Q And isn't it true that they were never
16 told what street to take or what,
17 you know, intersections to avoid, or
18 anything like that?

19 A Right.

20 Q There was no conversation, right?

21 A No.

22 Q There was no direction?

23 A No.

24 Q No instructions?

25 A No, not as I recall; usually take the

1 shortbook way.

4 A YOGA

5 Q But if they wanted to stop for a beer, they
6 stopped?

7 A Right, you know, but usually, as I say, we
8 checked the mileage. It is usually
9 13 or 14 miles, well, maybe 15 at the
10 most, but even still --

11 Q And you expected them to be there in some
12 reasonable time but you didn't look
13 at your watch at 11:00 o'clock and,
14 knowing it was an 18 minute trip to
15 the airport, start screaming at them
16 if they didn't get there in 18
17 minutes, right?

18 A Right.

19 MR. STILLMAN:

That is all.

EXAMINATION

22 BY MR. HOPPEL:

Q Is it 13 or 14 miles out to the airport?

24 A It kind of varies. Sometimes they make
25 it in 13 miles, well, actually, it

1 is the way the speedometer happens
2 to be reading that kind of makes a
3 difference, too.

4 Q Do you recall any occasion when the
5 shuttle brought a car to the airport
6 and its mileage was quite a bit more
7 than it should have been, 13, 20
8 miles?

9 A Well, there has been a few cases like
10 that.

11 Q Was anything said to the shuttle when
12 that happened, ask him where he went
13 or tell him he had too many miles?

14 A I don't know. I think a couple of times,
15 maybe one time there were a few extra
16 miles put on the car and I think he
17 was questioned where he went, I think
18 he said he had to go home to see his
19 mother or something like that, about
20 five or ten miles difference.

21 Q Was anything done about it?

22 A No.

23 MR. HIPPLE:

24 That is all.

25 ...oo...

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

• • • • •
AVIS RENT A CAR SYSTEM, INC. . CIVIL ACTION
VS. . NO. 70-C-70
UNITED STATES OF AMERICA . [Filed April 9, 1973]
• • • • •

Deposition of Harold J. Solice, Sr.,
309 Labarre Drive, Metairie,
Louisiana, taken at 500 St. Louis
Street, New Orleans, Louisiana,
commencing at 10:00 o'clock a.m.,
on March 7, 1973.

Dietrich & Pickett, Inc.
Stenotypists

333 ST. CHARLES AVENUE, SUITE 1221
NEW ORLEANS, LOUISIANA 70130-522-3111

1 APPEARANCES:

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6 GARDEN CITY, NEW YORK 11530

7 FOR THE DEFENDANT:

8 ROBERT J. HIPPLE, ESQ.
9 ATTORNEY AT LAW
10 TAX DIVISION
11 DEPARTMENT OF JUSTICE
12 WASHINGTON, D. C. 20530

13 B. L. PICKETT,
14 COURT REPORTER.

15 . . . ooo . . .

16 S T I P U L A T I O N

17 IT IS STIPULATED AND AGREED by and
18 between the parties that the testimony of
19 HAROLD J. SOLICE, SR. is being taken at the
20 time and place hereinbefore noted; that the
21 testimony may be taken down in shorthand
22 (Stenotype) by B. L. Pickett, Court Reporter,
23 and by him transcribed, or transcribed under
24 his supervision. Formalities as to signing,
25 sealing, certification and filing being waived.
All objections, except those as to the form of
the question, shall be reserved until time of

1 trial of the cause.

2 IT IS FURTHER STIPULATED AND AGREED
3 that the witness may be sworn by B. L. Pickett,
4 Court Reporter.

5 . . . o o . . .

6 HAROLD J. SOLICE, SR.,

7 having been first duly sworn, was examined and
8 testified as follows:

9 EXAMINATION

10 BY MR. HIPPLE:

11 Q Would you state your full name and address,
12 please?

13 A Harold J. Solice, Sr.

14 Q Your address?

15 A My home address?

16 Q Yes.

17 A 309 Labarre Drive, Metairie.

18 Q Your current occupation?

19 A I am a, well, let's see, supervisor now,
20 shop supervisor.

21 Q Shop supervisor for what company?

22 A Manager, I should say, for Avis.

23 Q How long have you been employed by Avis?

24 A Thirteen years or fourteen.

25 Q During that whole period have you been in

New Orleans?

2 A Yes, sir.

Q In this case we are talking about the
4 period 1962 to 1966, do you recall
5 what positions you held with Avis
6 during those years?

7 A Mechanic.

8 Q During the period of time 1962 to 1966
9 were you familiar with Avis's use of
10 shuttlers to move cars from one city
to another?

1 A No, I wasn't.

2 Did you ever do any shuttling yourself?
4 No, I haven't.

1 Do you know how the shuttling operation
works at all, how these people are
paid or what they do?

I have seen them with shuttlers bringing
cars from the airport downtown, some-
thing like that, you know.

Q Can you tell me how Avis contacts these
22 people, how they contact Avis?

23 A By phone, I suppose.

24 Q Do you know if Avis maintains a list of
25 these people?

1 A No, I don't.

2 Q Do you know how they are paid?

3 A No, I don't.

4 Q You say you have never done this yourself,
5 . never done any shuttling?

6 A No, I never have, no.

7 Q Going back to the period around 1962, can
8 you recall any occasion that you
9 would have been paid other than your
10 regular salary, either for expenses
11 or having moved a car, something that
12 came out of a shuttling fund from
13 Avis?

14 A In '62?

15 Q Yes, 1962.

16 A No. Now, I was a mechanic then and I
17 have been on breakdowns where I have
18 bought parts, say like a radiator
19 hose or something like that, and they
20 pay me out of petty cash.

21 Q Do you recall what year it was you started
22 working with Avis, approximately?

23 A What year?

24 Q Yes.

25 A That I started with Avis?

1 Q Yes.

2 A I started working with Avis in February,
3 '59, I believe it was.

4 Q When you started working for Avis or just
5 before that, was there an applica-
6 tion you had to fill out, employment
7 application of any kind?

8 A Employment application, yes.

9 Q Do you recall what kind of information it
10 contained or what the form looked
11 like, anything like that?

12 A Gee, I don't remember that now.

13 Q Do you recall if you were asked for
14 references?

15 A Yes, yes, I am sure I had references.

16 Q Did the application form or any other form
17 that you filled out at that time re-
18 quest information about your driving
19 record, speeding tickets or accidents
20 or anything like that?

21 A No, not that I know of.

22 Do you drive or did you drive during that
23 period of time as part of your regu-
lar duties as a mechanic?

24 A Yes, road-test cars, you know.

1 Q Did you have to have a special license
2 of any kind or any special per-
3 mission as far as Avis was concerned?

4 A No, I was the head mechanic, I guess you
5 would call it.

6 Q Was your license ever checked by Avis?

7 A Oh, yes.

8 Q Just once when you first started working
9 or checked periodically?

10 A Oh, no, checked periodically.

11 Q Was this true also in '62 to '66?

12 A That I don't remember.

13 Q How often is it checked?

14 A Pardon?

15 Q How often is it checked?

16 A How often, about I would say every other
17 year for sure.

18 Q There is no certain period of time?

19 A Not that I know of.

20 Q Do you know if your driving record has
21 ever been checked?

22 A My driving record, no, I don't know if it
23 has been checked or not.

24 Q Have you ever supplied anybody any in-
25 formation about it?

1 A No.

2 Q When you move a car or road-test a car,
3 do you have any documents or forms
4 or anything like that in the car
5 with you to keep track of the mileage?

6 A If I am over five miles, yes, we have a
7 vehicle transfer to be used, a non-
8 revenue ticket.

9 Q Non-revenue?

10 A Yes.

11 Q You mentioned a vehicle transfer, is that
12 a different document?

13 A Yes.

14 Q Do you know how that is used, what it is
15 used for?

16 A No, I don't.

17 Q Have you ever seen one before?

18 A Yes, sir, I have seen one. I think it is
19 used by the shuttlers from the air-
20 port downtown, I think.

21 Q I will show you what we have marked before
22 as Defendant's Exhibit A. Again, we
23 are talking about '62 to '66.

24 A I am sure this is an old one but I don't
25 know --

- 1 Q An old vehicle transfer contract?
- 2 A It seems to be, yes, sir.
- 3 Q Have you ever used one of those, moved a
4 car using that kind of contract?
- 5 A I don't remember using this kind.
- 6 Q Have you ever moved a car using a vehicle
7 transfer contract of any kind?
- 8 A No.
- 9 Q Have you ever moved a car more than the
10 five miles you mentioned without any
11 kind of document at all?
- 12 A Well, let's see now, we do use, let's see,
13 the vehicle transfer like say from
14 the airport to Dick Bohn where we
15 bought the cars from, Dick Bohn Ford,
16 I have used that. I would say it is
17 about 18 miles to Bohn Motors.
- 18 Q You say you use a vehicle transfer on non-
19 revenue?
- 20 A If I am on duty it is a vehicle transfer.
21 If I am not on duty, it is not used.
22 I think it is a vehicle transfer we
23 use.
- 24 Q Are you paid on a weekly, two-week basis?
- 25 A Two-week basis.

1 Q Do you know if and how the shuttlers are
2 paid?

3 A No, I don't.

4 Q Have you ever seen any money paid to the
5 shuttlers?

6 A No, sir, I haven't.

7 Q And driving a car for Avis, do you know
8 whether or not you are covered by
9 automobile liability insurance main-
10 tained by Avis?

11 A Yes, when I am on duty, yes.

12 Q Does that cover the car as well as any
13 injury to yourself; do you know?

14 A Yes.

15 Q How do you know that you are covered by
16 insurance, has somebody told you that?

17 A I have been in an accident. Last year I
18 was in two of them. I had two broken
19 ribs right here.

20 Q Do you know any person who was a car
21 shuttler during that period of time
22 '62 to '66?

23 A No, I don't.

24 Q You said you saw some of the people bring-
25 ing cars in?

1 A Yes, but I don't know who they were,
2 though.

3 Q Can you recall if any of the people you
4 saw coming in with these cars are
5 regulars, showed up a few times?

6 A No, I don't.

7 Q Were any of the people that you saw
8 shuttling cars full time employees
9 of Avis, such as a mechanic or ser-
10 vice agent, something like that that
11 was doing this off the clock?

12 A No, I couldn't say.

13 Q Are you covered by health insurance or any
14 other fringe benefits by Avis?

15 A Yes, sir.

16 Q Would you know if shuttlers are covered by
17 these?

18 A No, I don't.

19 Q Are the local Avis employees members of
20 any union?

21 A Pardon?

22 Q Are the local employees of Avis here in
23 New Orleans a member of any union?

24 A Now, the colored boys could be, I think,
25 but the mechanics are not.

1 Q The service agents, are they members of
2 . a union?

3 A No, I don't think so.

4 Q Was there a foreman or head shuttler or
5 anyone like that who ran the
6 shuttling operation, if you know,
7 decided the cars had to go to a cer-
8 tain place and got the people to do
9 it?

10 A Not that I know of.

11 Q During that same period of time, '62 to
12 '66, did you have any kind of
13 identification card or badge or any-
14 thing like that to identify you as
15 an Avis employee?

16 A I have a card from the vehicle, Motor
17 Vehicle Inspection where we get the
18 brake tag stickers from, I have that.

19 Q Does that show you are an employee of Avis?

20 A Yes.

21 Q Was that true at the time in '62 to '66?

22 A Pardon?

23 Q Was this true at the time?

24 A I believe it was. It is kind of old. I
25 did have it. Yes, this was when I

1 first started with them. It is in
2 '59, in fact.

3 Q Did you have any identification card or
4 badge or anything like that issued
5 by Avis?

6 A No.

7 Q Do you now?

8 A Yes, sir.

9 Q Do you know when that was issued?

10 A Well, they are issued every six months, I
11 believe, or a year.

12 Q When was the first time they issued those?

13 A I can't remember now.

14 Q Was it after '66?

15 A Oh, yes, this has only been about the past
16 year and a half, I guess, started
17 issuing these cards to us.

18 Q Again, during that period '62 to '66 when
19 you were working with Avis full time
20 on the clock, did you have a jacket
21 or any other kind of uniform that you
22 wore to identify you as an Avis
23 employee?

24 A I think we had the blue jackets then.

25 Q Were you required to wear them while you

14

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IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

AVIS RENT A CAR SYSTEMS, INC.,)
)
Plaintiff,)
) CIVIL ACTION
vs.)
) NO. 70-C-70
UNITED STATES OF AMERICA,)
)
Defendant.) Filed April 9, 1973

DEPOSITIONS OF .

LEE HOUSER,
CLARENCE LYES
JESSIE L. STOCKING
ROBERT C. STOUT

Taken in behalf of the Defendant

February 27, 1973

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IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

AVIS RENT A CAR SYSTEMS, INC.,)
)
Plaintiff,)
) CIVIL ACTION
vs.)
) NO. 70-C-70
UNITED STATES OF AMERICA,)
)
Defendant.)

THE DEPOSITIONS OF WITNESSES, Lee Houser, Clarence Lyes, Jessie L. Stocking and Robert C. Stout, produced, sworn and examined on the part of the defendant, UNITED STATES OF AMERICA, pursuant to notice, between the hours of nine o'clock and eleven o'clock in the forenoon of Thursday, February 22, 1973, in Room 427, United States Court and Customs House, 1114 Market Street, St. Louis, Missouri, before me, Betty Jane Stark, a Notary Public in and for the County and adjoining City of St. Louis, State of Missouri, in a certain cause now pending in the United States District Court for the Eastern District of New York, wherein AVIS RENT A CAR is plaintiff, and UNITED STATES OF AMERICA is defendant.

A P P E A R A N C E S

For the Plaintiff:

Gilbert, Segall and Youn
405 Park Avenue
New York, New York 1002
By: Robert Layton, Esq.

For the Defendant:

Robert J. Hipple, Esq.
Trial Attorney
Tax Division
Department of Justice
Washington, D.C.

LEE HOUSER

of lawful age, being produced, sworn and examined in behalf
of the Defendant, United States of America, deposeth and saith:

DIRECT EXAMINATION

BY MR. HIPPLE:

Let it be shown that counsel have agreed to waive
signature, seal and filing with the Court and agree to reserve
all objections except as to form until time of trial.

Q Will you state your name, please?

A Lee Houser.

Q What is your address?

A 4078 Esseldale, St. Ann, Missouri.

Q What is your current occupation?

A Ticket agent.

Q Were you employed from 1962 to 1966?

A Was I?

Q Yes.

A Yes.

Q Do you recall where?

A American Airlines.

Q During that whole period?

Houser - Direct

A Yes.

Q What were you doing at that time?

A The same thing, ticket agent.

Q Where were you a ticket agent?

A Same place, American.

Q Did you act as a car shuttler for Avis?

A Yes.

Q Do you know when that was?

A I have no idea.

Q Was it within the last four or five years?

A No.

Q Do you recall if it was in the period from 1962 to
1966?

A Possibly.

Q Do you recall how often you did it?

A How often?

Q Yes.

A No, I would say maybe six, seven, eight times, some-
where in that area.

Q Would you describe what a shuttler is?

A I would fly to Chicago on a pass with American,
pick a car up, not only Chicago, sometimes I went to Oklahoma
City, a couple times, I would pick a car up and drive it back.

Q Do you recall how you found out about shuttling?

Houser - Direct

A Another fellow I worked with told me about it.

Q Do you remember who that was?

A I believe there were a couple at the time, I believe Ed Nail.

Q Do you recall how you would get the shuttles, was there a chief shuttler, did you have a contract?

A I wouldn't call it a contract. I just went there and asked if they had anything. I would want to go to Chicago and did they have any car they wanted to drive back.

Q Where did you ask?

A At the rent a car booth at the airport.

Q Was it one of the rental agents there, do you remember who it was specifically, not the name, but --

A I have no idea.

Q Did anybody explain shuttling to you at Avis?

A No, only the fellow that told me about it that I worked with.

Q He was also with American?

A Yes.

Q Do you recall if you filled out any forms regarding personal information?

A No.

Q Do you know if Avis kept a list of shuttlers, people who did this in the past?

Houser - Direct

A No, because I would check with them.

Q Do you recall if they called you or anybody else and asked if anybody would like to do it?

A I don't think they ever did me personally, no.

Q Were there any kind of documents, contracts, papers of any kind you had when you went to pick up a car?

A I believe they did give us a form.

Q Would you look at Defendant's Exhibit A, as previously marked, and see if you can identify that?

A To be honest with you, I don't remember. It might have been something like this.

Q Do you recall anything in particular about the document you had at the time?

A No, I really don't.

Q Do you remember whether or not it was a printed form, a piece of paper with information filled in?

A I can remember we kept track, in order to get paid, kept track of the mileage. I don't remember if it was on a form of any kind.

Q Did you have anything to identify the particular car you were to pick up, a description, license number, anything like that?

A That was a long time ago, I honestly don't remember.

Q For example, when you went to Chicago, was there

Houser - Direct

anyone up there you had to contact who was expecting you?

A No, I think they would call ahead of time and make sure the car was there. A couple times I went and got to the location and couldn't find the car.

Q Was anybody there expecting you specifically?

A Only when they called ahead of time, but no one in particular. I just went to Chicago.

Q Did they have your name at the Chicago counter, saying you were coming?

A I'm not sure.

Q Do you know if you had any way of identifying yourself, so they would know you were not somebody just off the street?

A They must have known who I was. I would just say I was from St. Louis to pick a car up.

Q Do you recall when you first started shuttling at any time when you were asked for your Social Security Number?

A No.

Q No, you do not recall or no you were not asked?

A Not that I remember.

Q How about your driver's license?

A I don't believe so.

Q Did anybody ask you about your driving record?

A No, not that I recall.

Houser - Direct

Q How about a home address and telephone number?

A I don't think so.

Q A business address and phone number?

A No.

Q Any references?

A No.

Q Did anybody ask you about automobile insurance coverage?

A No, but I can remember I asked.

Q Do you recall who you asked?

A One of the fellows had an accident when returning one of these cars and I asked, I can't remember who, one of the girls at the counter, if we were covered and they told us, yes, we were.

Q Do you recall who had the accident?

A Yes, a Mr. Ray Bushman.

Q Was he also with American Airlines?

A Yes.

Q Was there any kind of interview before you could shuttle?

A No.

Q Would you describe, as best you recall, the steps you took from the time you first contacted Avis to find out if to the time you brought the car back to St. Louis?

Houser - Direct

A I would just check at the counter to see if they had any cars to be delivered, returned. If they did, I would make out a pass with American and make arrangements to get on the next flight to the destination I was going to and go to their counter, tell them what I was there for, pick up the car and bring it back.

Q You don't recall any documents they gave you at that end?

A No.

Q How about back in St. Louis, was there any checkin procedure of any kind?

A The girls would fill out some kind of form, I have no idea what it was, to pay us, but it was just for the mileage, the gas we might have used, toll bridges, anything like that.

Q Do you recall how you were paid, in cash?

A It was cash.

Q For each job or on a weekly basis?

A Each job.

Q Do you know how the amount was fixed?

A No, the fellow that worked for American told me what they paid, or 7 cents a mile.

Q It was based on mileage, not a flat rate?

A Yes.

Q How about expenses, such as toll bridges and gas?

Houser - Direct

A Yes, they paid that.

Q How about transportation to Chicago or Oklahoma City?

A No, if there were a surcharge on a pass, at first there wasn't, but then our company started charging so much for a pass and they paid that.

Q Do you recall how much it was?

A Two dollars or three dollars.

Q And Avis picked that up?

A Yes.

Q Were you given a specific route to follow back?

A No.

Q Were you given a specific time to be back?

A No.

Q Were you allowed to use the car for personal reasons on the way back?

A It was not discussed.

Q Do you recall who checked the mileage on the car on either end?

A I usually did myself for my own benefit.

Q Do you know if anybody from Avis did?

A When you would check it in, if I remember right, they had a colored fellow that parked the car in the lot and he did.

Houser - Direct

Q How about the other end, did they write down the mileage?

A I am not sure.

Q Do you recall any instructions or advice or anything given to you when you left with the car?

A No.

Q Was it explained what would happen if you got a speeding ticket on the way back?

A No.

Q Would you have any idea what it was?

A No.

Q You didn't get one?

A No, I was very careful.

Q What about a parking ticket?

A I don't know.

Q Did they explain what to do if the car broke on the way back?

A No, I never had any problems.

Q They never explained and you never had any tr

A No.

Q How about in case of an accident, did they tell you to call or what to do?

A No.

Q Did you ever ask them about it?

Houser - Direct

A No.

Q I think you mentioned before, do you know whether or not you were covered by automobile insurance maintained by Avis while you were driving?

A As I said before, I had asked because this fellow had an accident. I asked if we were covered and they said yes.

Q Do you know if that extended to you personally, for personal injury or just the car itself?

A I didn't ask, I just assumed it would.

Q You said you asked the girl at the counter?

A Yes.

Q Do you know if Social Security, withholding taxes, unemployment taxes, were taken out of the amount given you?

A No.

Q You don't know?

A I doubt it, I am not sure.

Q Do you recall if anything was said about payroll deductions?

A Nothing was.

Q Do you recall if you included the amount on your personal return?

A I didn't, no.

Q Do you recall anyone else who did car shuttling during the period from 1962 to 1966? You mentioned a Ray Bushman?

Houser - Direct

A I told you he had an accident. I am not sure what period it was. It might have been before or after.

Q That was for Avis?

A I am not sure of that. It was a Rent A Car. No, I can't think of anyone right now. There were other people that were doing it, but I can't remember who the heck they were.

Q Do you know if this was a regular thing with airline personnel in St. Louis?

A The few fellows that did it, did it more than once.

Q Just for Avis or all rental cars?

A No, if I remember right, I don't know if it was National or not, I believe National used to do it occasionally, also.

Q How about Hertz?

A I don't think Hertz did.

Q Did you do it for anybody besides Avis, if you need?

A No, I don't believe so.

Q Do you know whether anyone who did car shuttling for Avis was a full-time employee for Avis or somebody at the counter?

A No, I don't know.

Q Did you ever see any advertisements in the newspapers or anywhere else for car shuttlers?

A No.

Q Do you recall about when the last time was you

Houser - Direct

shuttled a car for Avis?

A I don't have the slightest idea.

Q Not in the recent past?

A No, it has been a long time.

Q Did you get any training at all?

A No.

Q No written or oral instructions or information?

A No.

Q Do you recall what you were given when you first got the car, besides keys and the registration?

A Nothing that I can recall.

Q Do you know whether you were covered by health insurance or anything like that maintained by Avis?

A No.

Q How about workmen's compensation or any other fringe benefits?

A I was not aware of it.

Q Did you ever file a claim for fringe benefits for Avis?

A No.

Q Do you know of anybody else who has who shuttled cars?

A No.

Q Do you know if anybody who shuttled cars frequently

Houser - Direct

was given preference as to someplace to go for cars to be picked up?

A Recently?

Q During this period?

A No, when you did it, usually I would call this fellow and if there was more than one car, he would tell me.

Q This was the guy with American?

A He would let us know if they had something. He would go by and ask if they had anything when he had the day off.

Q Do you remember his name?

A Ed Nail.

Q Is he still with American at the St. Louis Airport?

A Yes.

Q Did you ever share part of your fee or compensation with anybody else?

A No.

Q Were you ever asked to do that?

A No.

Q Was there any foreman or head shuttler for Avis who controlled the cars as to who went where?

A Not that I know of.

Q Was there any specific person you talked to?

A No, usually it was the girls.

Houser - Direct

Q Did you have any kind of information or card indicating you were a car shuttler for Avis?

A No.

Q Do you know what records were maintained by Avis to show the dates and amounts of payments to car shuttlers?

A No.

Q Do you know if you were required to sign a receipt for payment when you got it, a petty cash slip?

A I am not sure, I believe we did.

Q You don't recall what it would look like?

A I really don't. It might have been something like this. This looks sort of familiar.

Q That is Exhibit A you are talking about?

A Yes.

Q You think you signed something when you got paid to show you were paid?

A I believe we did.

Q To your knowledge was any person who shuttled cars in the past refused or not allowed to do so again for some reason?

A I don't know of any that have been.

Q Was Avis' need for shuttlers a regular thing or just at certain times?

A Just certain times.

Houser - Direct

Q Do you recall specific times, like weekends that they needed people?

A I don't think there was any particular time, just whenever they had something.

Q The driving you did for Avis, was that on your off-duty hours?

A Yes, it was.

MR. HIPPLE: That's all I have.

MR. LAYTON: I have no questions.

(Witness Excused)

CLARENCE LYES

of lawful age, being produced, sworn and examined in behalf of the Defendant, United States of America, deposeth and saith:

DIRECT EXAMINATION

BY MR. HIPPLE:

Let it be shown that counsel have agreed to waive signature, seal and filing with the Court and agree to reserve all objections except as to form until time of trial.

Q Would you state your full name?

A Clarence Lyes.

Q What is your present address?

A 4420 Richard Place.

Q In St. Louis?

A St. Louis 15.

Q What is your current occupation?

A Avis, I work for Avis, a parking attendant.

Q How long have you worked for Avis?

A Ever since 1962.

Q In the same position?

A Same position.

Q At the St. Louis Airport?

A No, I work for the truck division down on Manchester.

Q Have you ever shuttled cars or trucks for Avis in your spare time?

A Well, I usually go out of town for them on the

Lyes - Direct

clock on something like that.

Q Have you ever done it off the clock?

A No, not a car, I haven't.

Q How about a truck?

A Trucks, I went out of town for.

Q Always on the clock?

A Yes.

Q Do you get paid?

A They pay me when I get back.

Q As part of or in addition to your regular wages?

A Part of my wages.

Q Would you describe what you did when you went out of town to pick up a car or truck?

A Well, I usually take a truck somewhere and bring one back.

Q Is it all local or some long distance?

A Sometimes it's out. Last Friday I went out on the clock.

Q We are talking about the period from 1962 to 1966 specifically. As best you recall, what would be the farthest you went during that period?

A The farthest was to, I took a truck, it wasn't for Avis, it was for Krey Packing Company, but it was one of Avis' trucks. I went to Washington, D.C. with that.

Lyes - Direct

Q Did you normally take a truck out and bring a truck back?

A At that time I did, or they flew me back.

Q They paid your way back?

A Yes.

Q Do you recall if you had to fill out any kind of form or if any form was filled out when you went to pick up a truck?

A When I went to pick it up, I never did fill out no form.

Q Was there any kind of ticket showing the description of the truck, the license number?

A I usually get that here. They give that to me out there.

Q In St. Louis or where you pick the truck up?

A In St. Louis.

Q And you take that to where the truck was?

A I will leave it in the truck and bring the other truck back.

Q Was there a name for that ticket?

A What do you mean?

Q This piece of paper that went with you.

A A written agreement to put in the truck, they gave it to me.

Lyes - Direct

Q Do you recall what it looks like?

A A small piece of paper.

Q Let me show you Defendant's Exhibit A, did it look like that?

A No.

Q Have you ever seen one of those?

A No.

Q Was it a non-revenue ticket?

A Something like that.

Q I assume from what you said as part of your regular job with Avis you have been authorized to drive for Avis?

A Yes.

Q Did they check your driver's license?

A Yes, they get that to check with the police, if the Highway Patrol ever stopped me.

Q Was your license checked on a regular basis, every six months or just the first time?

A What do you mean? They always put it on and give it to me. If I do go, I have to put my driver's license number on there. If I pick up the truck and nobody would be there, I just pick it up and drive it back.

Q When working for Avis, do they check your driver's license and make sure it is not expired?

A Yes.

Lyes - Direct

Q When do they do that, regularly, every six months or just when someone thinks about it?

A No, they haven't checked me.

Q Do they keep track of your driving record? Do you have to account for speeding tickets?

A With a truck?

Q Just generally, with Avis, do they keep track of your driving record?

A They do.

Q Is there a person you see about that?

A In case of an accident, you go in the office and tell them.

Q How about speeding tickets?

A We have to pay that ourselves.

Q Do you have to tell them you got one or anything like that?

A I never had one, I don't know.

Q Would you describe as best you can recall between 1962 and 1966, I know that is a while back, the general steps that took place when you went someplace to pick up a truck and bring it back? Who did you see?

A Usually the truck had been took someplace and they wanted to bring it back. One time I went to Arthur, Missouri. They had stolen something from the truck and me and the manager

Lyes - Direct

ent to pick it up.

Q When you drove it back, was there a check-in procedure when you got back?

A Yes.

Q Do you recall what you had to do?

A What I had to do?

Q Was there anything specific, signing a form or seeing somebody and telling them you were here?

A No.

Q You just came back with the truck?

A Both of us come back at the same time, he followed me.

Q Was that the procedure followed every time you picked up a truck?

A Most of the time. Sometimes I didn't. Sometimes I would catch a bus and go get it.

Q Did they pay for the bus?

A They paid for everything.

Q When you got back to St. Louis with the truck you picked up, what did you do?

A Just drove it on the lot.

Q Did you check the mileage?

A I gave them the mileage, yes.

Q Did somebody check it on the other end?

Lyes - Direct

A Yes.

Q Did you do that or somebody else?

A I usually did. We gas it up and give them the mileage in case they want to rent it out before I got there.

Q Was there a form you used to put down the gas?

A We got a ticket that we stick in the gas machine.

Q Did you carry that with you or did it stay in the truck?

A This stayed at Avis.

Q How were you paid at the time you went to pick up a truck when you were not working your regular shift?

A Mostly they gave money.

Q Each time you got back?

A Yes.

Q Do you know how they figured out the amount?

A Usually something about mileage and if I don't come up to my standard salary, they just give me eight hours for it.

Q Do you get paid extra for any tolls?

A Toll bridges?

Q If you had to go across a toll bridge?

A I pay it out of my pocket and they give me the money back.

Q How about a long trip, if you would stop for a meal? Do they pay you for the meal?

Lyes - Direct

A No.

Q Were you given any specific route to follow on the way back? Did they tell you which roads to take?

A Yes.

Q They told you which way to come back?

A They told me to come back the best way, the easiest way.

Q Were you given a specific time to be back?

A No.

Q Did you ever do this for a car?

A No.

Q It was always a truck?

A Always a truck.

Q Could you use the truck for personal purposes on the way back?

A No.

Q Did they tell you that specifically?

A No, I just knew that.

Q Do you recall any other kind of instructions or advice they gave you when you went to pick up a truck?

A Most of the time they would tell me to go such and such a place. Most of the time it was another Avis place.

Q Did they tell you a specific person to see when you got there or just the Avis place?

Lyes - Direct

A Yes, sometimes.

Q Did they tell you what happened if a truck broke down?

A To call them and they will try to get it fixed.

Q Was this something you knew from your regular job or did they tell you something specifically about bringing it back?

A I don't understand.

Q When you went to pick up one of the trucks to bring to St. Louis, did they tell you what to do?

A This is just what I know.

Q How about in case of an accident?

A The same thing.

Q Do you know if you were covered by automobile insurance or truck insurance, liability insurance, while driving the truck back?

A Well, that was something I didn't take on myself. I better check that, but I think they are.

Q Did anybody ever tell you whether you were or not outside of your regular duty hours when driving?

A No.

Q Do you know if Social Security, unemployment taxes or withholding taxes were taken out of the cash amount when you got back from the trip?

Lyes - Direct

A They usually do. I really don't know what comes out of my check.

MR. LAYTON: Just so there is no misunderstanding on any check, I think Mr. Lyes testified he was a full-time employee and was paid so much a week.

Q That's what I am getting at. You indicated when you got back from the trip you got cash?

A If I didn't, if I went somewhere, most of the time it was on the clock to get this, because if I did go so far, they would pay me twelve hours to make it back in a certain time. I usually got back in eight hours.

Q You just got your regular salary?

A Yes.

Q You got paid once a week or every two weeks?

A Every other week.

Q Was there ever a time when you got cash right when you got back?

A Krey Packing Company paid me cash. I drove one of Avis' trucks to Washington, D.C. for them.

Q How about the Avis trucks you picked up and brought back?

A Not that I know of.

Q That was always paid with your regular salary?

A Yes.

Lyes - Direct

Q If it was more than eight hours, did you get time and a half?

A Sometimes I got time and a half.

Q Do you know anybody else who did any shuttling, either trucks or cars, during that period of time?

A No.

Q Did you ever see any ads for shuttlers for cars or trucks in the newspaper?

A No, I sure haven't.

Q Do you recall who it was at Avis who would tell you there was a truck someplace they wanted you to pick up?

A Just that there was a truck out there.

Q Was it a specific person who would tell you?

A They would come and ask me. I wouldn't know unless they asked me.

Q Was there a specific person who would do this?

A Yes.

Q Who was this?

A One of the bosses out there.

Q Not the same one each time?

A It don't have to be the same one.

Q Did you have identification or a uniform, any kind of identification to identify you as an Avis employee?

A I have something to identify me as Avis.

Lyes - Direct

Q A card?

A Yes.

Q Does it have your picture on it?

A No, just my name and card number.

Q Did you have that in 1962 and 1963?

A Let me see, I don't think so.

Q You said you started working there about 1962, did they give you a number when you first started?

A Not right away, but it has been so long.

Q Was it within a year after you started or six months?

A At that time I was working two jobs and I might get mixed up. I don't know when they started, but it should be around 1965 when I got the card.

Q Do you know if everyone who works for Avis full-time has a card like that?

A Yes, just about everyone. I wouldn't know about the division. I am talking about the truck division, we got it.

Q Do you know whether Avis maintains any records of kind to indicate trucks moved back from where they were to ouis?

A I really don't know. I couldn't say about that.

I am still not clear on one point as to how you were paid it. You say you don't recall any time you were paid

Lyes - Direct

in cash when you got back from driving one of these trucks off
the clock besides the one with the packing company?

A That's about the only one.

Q Was it the packing company who paid you or Avis?

A Avis gave me the money. I don't know if they paid
or not. They called me at home.

Q Avis or Krey?

A Avis did. They wanted someone to drive meat to
Washington, D.C.

Q Was the truck loaded?

A Yes.

Q And that's the only time you can think of when you
actually got cash when you got back?

A Yes.

MR. HIPPLE: I have no more questions.

MR. LAYTON: No questions.

(Witness Excused)

JESSIE L. STOCKING

of lawful age, being produced, sworn and examined in behalf of the Defendant, United States of America, deposeth and saith:

DIRECT EXAMINATION

BY MR. HIPPLE:

Let it be shown that counsel have agreed to waive signature, seal and filing with the Court and agree to reserve all objections except as to form until time of trial.

Q Would you state your full name and current address?

A Jessie Louis Stocking.

Q And what is your current address?

A 3504 Oakdale.

Q In St. Louis?

A Right.

Q Are you currently employed?

A Yes.

Q With whom?

A Avis Rent A Car.

Q What division?

A You mean at the airport here?

Q The truck or car division?

A Car division.

Q What is your position there?

A Service agent.

Q How long have you been with Avis?

Stocking - Direct

A Approximately ten years.

Q You worked for Avis from 1962 to 1966, in that period?

A From 1962 up until now, yes.

Q Did you ever act as a car shuttler for Avis, moving cars from the airport to any where else?

A Yes.

Q Have you done this on the clock for Avis?

A No.

Q You have done it off the clock?

A Yes, well, that depends, when I shuttled cars like going to the airport, back when I first started, I started downtown and if they had to have a car when I was on the clock, I would just get in a car and go bring a car back downtown. I would be on the clock. I have shuttled cars, if I had my eight hours in, I would go with a car or something and don't be on the clock.

Q Do you recall about how often you did it off the clock, once a week or twice a week?

A No, I would say sometimes about three or four times a week, sometimes and then sometimes not at all.

Q Did you ever go long distances?

A Yes.

Q What was the farthest you remember you went?

Stocking - Direct

A Knoxville, Tennessee.

Q Did you take a car down or go down there and bring a car back?

A I went from here on the bus to Memphis, picked up a station wagon there and drove up to Knoxville and picked up another car and we come back to St. Louis.

Q Did you go by yourself?

A Me and another guy.

Q He was shuttling too, more than one car was involved?

A Yes, they had one car in Memphis. I picked that up and drove from Memphis to Knoxville and we picked up a car in Knoxville and drove back to St. Louis.

Q Do you recall how you found out about where the cars were to be picked up?

A How I found out about them?

Q Who told you about them?

A One of the managers.

Q At Avis here?

A Yes.

Q Did he come to you or did you go to him and ask about it?

A Most of the time I would go to him, like when we wanted a little extra spending change, we would ask, "Do you have any out of town cars to pick up?" He would look it up and

Stocking - Direct

sometimes say yes and sometimes say no.

Q When you went to pick up one of these cars, working off the clock, did you have any document or paper to identify the car and mileage?

A Yes.

Q Would you look at Defendant's Exhibit A and see if you can identify that?

A No.

Q Just the form itself, not any specific information?

A Oh, just the form, it looks kinda familiar, but they change these forms, I'm not sure.

Q You had some kind of a piece of paper or document you took with you?

A Yes.

Q Do you recall what kind of information was on it?

A I don't remember seeing Vehicle Transfer Contract. I do know they have on this where you put your mileage and you sign it down here.

Q A description of the car and things like that?

A Yes.

Q Did anybody ever explain to you what the purpose of that piece of paper was, why you had it?

A In order to have some kind of identification so you get the car you were going to have.

Stocking - Direct

Q When you did the shuttling on an off the clock basis, did anybody ever ask for your Social Security number?

A No.

Q How about your driver's license?

A Yes.

Q Was this each time you wanted to shuttle a car that somebody asked to take a look at your driver's license?

A No.

Q You were authorized to drive regular with Avis, you had regular employment?

A Yes, I was a regular employee.

Q When did they first check your driver's license, when you first drove?

A Yes.

Q Was your driver's license checked on a regular basis on the full-time job, every six months or every year to make sure it was current?

A No.

Q Was it ever checked after the first time you started working there?

A Yes, I think it was. I know if something comes up, we have to get a chauffeur's license and they want to make sure you got it.

Q When you went to pick up a car in Knoxville or

Stocking - Direct

Memphis, did somebody there check your driver's license?

A Yes.

Q Somebody at the counter or someplace else?

A At the counter.

Q Did anybody ask about your driving record, speeding tickets or accidents?

A No.

Q Did they ask for your address and telephone number when you picked up the car?

A No, I would have my contract with me and then I would show them my identification.

Q Did you have Avis identification of any kind?

A Yes.

Q Do you remember what it was, a card or a badge or what?

A Something like a little card.

Q Do you remember when you first got that, when you first started working for Avis or sometime after that?

A Sometime after that, we just, sometime after that.

Q Do you remember about when it was, about what year it would have been?

A I would say maybe 1968, 1967 or 1968, I guess.

Q Whenever you did shuttle, did you show the people where you picked up the car your Avis identification?

Stocking - Direct

A Did I show the people?

Q Did they ask to see it when you picked up the car in Memphis, if you remember?

A They want to see something. If you didn't have identification, you show them your contract and your driver's license and that was about it.

Q Were they expecting you when you picked up the car?

A Yes.

Q You specifically? Did they have your name there or were they just expecting somebody from St. Louis?

A No, they would call and tell them to hold a car for such and such to pick it up.

Q In Memphis they knew that Jessie Stocking was coming to pick up a car?

A Right.

Q As best you recall now, would you describe the general steps that took place, each step along the way from the time you left St. Louis to pick up the car in Memphis until you got back and turned it in?

A Remember just what I did?

Q What you did, who you talked to in Memphis, not names, but who you talked to to pick up the car, who you checked with, and when you got back to St. Louis, what did you do when you got back?

Stocking - Direct

A Now, this is not the only case, I have went to other cities.

Q Just generally what you did?

A If they have a Memphis car here, I have a two-way deal. I got the Memphis car and drove it to Memphis and picked up the St. Louis car and brought it back. This car would be wrote up to be dropped off in Memphis and I give them the papers and the mileage and what day it was dropped there and what time and then they would write the St. Louis car up for me to bring back to St. Louis.

Q In that case, when you had it going both ways, were you paid when you got to Memphis?

A No, Avis would pay me for bringing the car from Memphis and when I take the car to Memphis, it would be just transportation to get down there.

Q You weren't paid for shuttling the Memphis car down to Memphis?

A No, I wouldn't be paid for that, but they would pay me for bringing the St. Louis car to St. Louis.

Q Do you recall how you were paid, was it in cash at the time or check or what?

A When I would go out of town, it would be a little check, yes, it would be a check.

Q Was this amount included in your regular wage for

Stocking - Direct

the two weeks?

A No.

Q Did you get the check right then when you got back or did you get it later?

A Right then.

Q Did you ever get cash when you did this?

A I wouldn't get cash. When I got these cars, when they called me at night to take a car from the airport to downtown, they just pay you off in cash then.

Q You are talking about when you were called to drive a car at night, you were paid cash every time you checked that one in?

A Yes.

Q But for out of town trips you were paid by check?

A Yes.

Q Do you know how the amount was fixed, how they decided how much you were to get?

A By the mileage.

Q Was that only for out of town or all the driving, from downtown to the airport?

A Just out of town.

Q How about from downtown to the airport?

A They figured out what they gave you there, not by the mileage.

Stocking - Direct

Q A flat amount?

A A flat amount.

Q When you went out of town, did you get reimbursed for tolls, gas and oil and things like that?

A Yes.

Q How about meals if you had to eat someplace?

A No.

Q How about if you took a bus going someplace to pick up a car, did they pay for that?

A Yes.

Q Did you pay first and get reimbursed or did they give you the money for that?

A I paid for it first and then got reimbursed.

Q Did they give you a specific route to follow, specific roads to come back on?

A It is left up to me, the best way.

Q Did you have a specific time to be back?

A No.

Q Were you allowed to use the car for personal purposes on the way back, such as picking up a friend?

A Would you say that again?

Q Could you use the car for personal purposes on the way back?

A They didn't say I could or couldn't.

Stocking - Direct

Q Do you remember whether or not you could or couldn't?

A The way it is signed, I could. Nobody didn't tell me I couldn't.

Q Was the mileage on the car figured from where it was picked up and brought back?

A Yes.

Q Do you know who did that?

A Whoever was on the counter. Maybe if it was running late, if I had come from Memphis, it would have the miles on there when I left and they would look at it later in St. Louis and get the mileage here.

Q When you got back to St. Louis, was there any check-in procedure, somebody you had to see and something you had to sign?

A No, no more than drive it on the Avis lot. I would get the mileage and take it inside.

Q And just tell them the car was here?

A The car was here.

Q Do you recall any kind of instructions or information you were given besides where the car was when you went to pick up the car?

A No, there wasn't none, no.

Q Did anybody tell you what would happen if you got speeding ticket on the way back?

Stocking - Direct

A That would be mine.

Q Did they tell you that?

A They don't pay it.

Q Were you told that specifically when you went to pick up a car or was that something you knew from working full-time with Avis?

A That's something I knew.

Q Is that true of parking tickets or any other kind of tickets?

A I would say parking tickets, I think they would pay. I have never got a ticket with them.

Q What happened if the car broke down, did they tell you what to do?

A If the car broke down, you had to go, if I can't do anything myself, I had to call somebody at the nearest station.

Q Did they tell you that when you picked up a car or is this something you already knew from working for Avis?

A They said I should call Avis if it is real bad or something. If it was something like a blowout on a tire or something like that, that I couldn't fix myself, if I didn't have a spare, I should get in touch with the first filling station and they would take care of it.

Q Were you supposed to call the nearest Avis station?

Stocking - Direct

A Yes.

Q Or were you to call the place you were coming from
or going to?

A They said to call the nearest Avis station.

Q Did they tell you what to do if you had an accident
on the way back?

A The same thing, call Avis if I have an accident.
That's right, it comes back to me, you make a police report.
That's definite. You have to make a police report and the next
thing is to get in touch with Avis.

Q Again, was this something that you were told specifically when you were driving a shuttle?

A This was when I would be on the road shuttling cars.

Q Is this something you knew as a regular employee of Avis full-time?

A Well, I know it, but this is something I recall they did, one of the managers did say if I have an accident or something, the first thing to do is to make the police report and then get in touch with Avis somewhere.

Q Again, the nearest Avis office as opposed to calling St. Louis or the other end of the line?

A Now, I imagine you would call back to St. Louis, I
guess.

8 Do you know whether you were covered by automobile

Stocking - Direct

insurance while you were driving off the clock one of these shuttles out of town?

A They said I was covered.

Q When you say "covered," is that just the car or were you covered personally for any injury you might have?

A The car was covered and I just presumed I was covered too.

Q Do you recall if anyone told you that specifically?

A They said if I go out and mess up the car or something, the car was covered with insurance.

Q I am thinking of personal insurance to you, not the car itself:

A Nobody told me that specifically.

Q Do you know whether Social Security, unemployment taxes, withholding taxes, were taken out of the amount paid you, this check or cash when you were shuttling off the clock?

A That's something I don't know.

Q Do you know if somebody said anything to you about payroll deductions?

A No.

Q Do you recall if you included the amount you got, the small check or cash in your own tax return?

A No, what they said was that I had nothing to worry about, something like that, because it was called petty cash

Stocking - Direct

and they would, I imagine they were taking care of all that.

Q Do you know anybody else who shuttled cars during that period of time, off the clock, I am talking about?

A Anybody else, quite a few people, yes.

Q Can you give me the names of people you know who were doing it?

A That was going out with me?

Q Or that you knew went out, went with you or by themselves?

A Well, I got some relatives that went out with me.

Q I mean that were being paid the same as you, Avis telling them a car was in Memphis or someplace and that they should go pick it up and bring it back. Do you know of anybody else doing that?

A Yes.

Q Would you give us a couple names?

A I don't know his address, but Roosevelt Jackson, he shuttles cars for them now.

Q Does he live in St. Louis?

A Yes.

Q Do you know anybody else who was a full-time employee of Avis, such as an Avis agent or somebody at the counter who shuttled cars off the clock?

A Rothel Blanks.

Stocking - Direct

Q Does he work for Avis now?

A Yes.

Q Do you know anybody else? I am really interested in getting in the period of the middle '60's, back then?

MR. LAYTON: From 1962 until 1966.

A I think you should erase Roosevelt off then. 1962 to 1966, some of the people who shuttled with me have gone and that's it. You need one more, right?

Q If you can think of any, it's not that important if you can't think of anybody. I was just curious if you knew anybody who worked full-time for Avis like yourself and who was shuttling for Avis off the clock?

MR. LAYTON: During 1962 until 1966.

Q Yes, from 1962 until 1966.

A I can't recall right now.

Q Did you ever see any ads of any kind for shuttlers in the newspaper or anything like that?

A No.

Q Do you recall any kind of written or oral instructions or information you were given when you were to get a car besides where the car was? Did anybody tell you what to do and how to do it?

A When I got ready to get a car?

Q Yes.

Stocking - Direct

A Here or where?

Q Here or anywhere, somebody telling you what to do and how to do it, any kind of instructions at all?

A No more than when I was away, they would get in touch with the people and I would just go take my contract and present it and tell them who I am and where I was from.

Q Do you recall what you were given when you picked up a car besides a set of keys, the registration and contract, anything else?

A No, nothing else, a set of keys.

Q Do you know if you were covered by health insurance maintained by Avis when you were driving the car off the clock?

A I don't know, I don't think so.

Q How about workmen's compensation or any other fringe benefits?

A No.

Q Did you ever ask anybody about that or did anybody ever tell you specifically if you were or weren't?

A No.

Q Did you ever have to share any part of your fee or compensation for shuttling with anybody else?

A No.

Q Were you ever approached to do that?

A No.

Stocking - Direct

Q Was there a foreman or a head shuttler or anybody like that controlling the shuttling operation?

A Yes.

Q Did he have a title?

A No; just friends, if they have cars in Springfield, Illinois, if they have four or five cars, they will say, "Jessie, will you take about four men and get a car to drive to this place to pick up these cars?" The one who shuttles them, the one who drives would be in charge of these guys.

Q Did you ever do that?

A Yes.

Q They gave you a car to drive up with?

A Yes.

Q And you drove the car back?

A Yes.

Q How were you paid?

A By the mileage.

Q The miles out and back?

A Out and back.

Q You were paid extra for being head shuttler there?

A Yes.

Q When you acted as head shuttler or foreman or whatever, did you carry all the contracts with you for all the cars?

A They would give one to each man and then they go

Stocking - Direct

inside and sign up, look on the record and see the cars they have and their vehicle number and they would look at the contract, each man would have a certain car.

Q Each of these guys that went up with you had his own contract and you drove the car up?

A Yes.

Q How many times did you do that as sort of head man or foreman, once or a couple times?

A Before they cut it out, it was back then when we are talking about, I would say, I don't know, two or three times or something.

Q At the time you did that, when you took off with the four guys with you, where did you get these guys to go with you? Did you get them or were they already there?

A Well, I would get some guys I thought were responsible guys, you know.

Q Guys you knew, friends of yours?

A Something like that.

Q Were any of these guys employees of Avis?

A No, back when we are talking about, 1962 to 1966?

Q Right.

A Maybe I did, because one or two times, something like that, but that was later, I would say from 1965, maybe I did, yes.

Stocking - Direct

Q Do you know what records, if any, were maintained by Avis to show the dates and amounts of payments to you or other shuttlers, any kind of records they kept?

A I wouldn't know.

Q When you got back with the car, did you sign a receipt to get payment from petty cash, a petty cash slip or anything like that?

A Yes.

Q Do you remember what it looked like?

A What we signed was the rental agreement and we would give them the rental agreement and they would make you out a little check and copy your name on it and they would pay you by the mileage.

Q Did you have to sign a receipt that you got that check or that you got paid?

A No, what we would sign would be a little contract, that's the only thing we would sign.

Q This check you got, was there any kind of identification number or anything like that on it, do you remember, if you recall?

A I can't recall.

Q To your knowledge was any person who could shuttle cars for Avis in the past refused or not allowed to do so again for some reason?

Stocking - Direct

A Yes, some of the people that were shuttling.

Q Do you recall any specific reasons or circumstances of that happening?

A I can recall one. There was a guy that had an accident and he was denied. He couldn't shuttle anymore after that.

Q Do you remember who that was?

A No.

Q Do you remember who at Avis told him he couldn't shuttle anymore, or his title?

A I imagine one of the supervisors.

MR. HIPPLE: That's all I have.

CROSS EXAMINATION

BY MR. LAYTON:

Q Talking strictly about shuttling off the clock, when you weren't working full-time for Avis, that's what I am talking about, did you notice whether when the weather was bad or raining or snowing, it was harder to get guys to do shuttling?

A Well, yes, when maybe if it would be snowing or something like that, yes.

Q People weren't so interested in shuttling then?

A No.

MR. LAYTON: I have no further questions. Thank you.

(Witness Excused)

ROBERT CHARLES STOUT

of lawful age, being produced, sworn and examined in behalf
of the Defendant, United States of America, deposeth and saith:

DIRECT EXAMINATION

BY MR. HIPPLE:

Let it be shown that counsel have agreed to waive
signature, seal and filing with the Court and agree to reserve
all objections except as to form until time of trial.

Q Would you state your full name and current address?

A Robert Charles Stout, 9406 Theodosia, St. Louis,
Missouri 63114.

Q Are you currently employed?

A Yes.

Q Where?

A I start working tonight at the Night Gallery in
Jerseyville, Illinois.

Q Were you employed during the period of 1962 to 1966?

A Any employment you mean?

Q Any full-time employment during that period.

A From 1962 to 1966, intermittently I had about three
or four different jobs.

Q Did you ever act as a car shuttle for Avis?

A No.

Q Did you ever work for Avis at all?

A Yes.

Stout - Direct

Q What did you do for Avis?

A Service agent.

Q Where?

A Lambert International Airport.

Q When was that?

A Intermittently, sometimes full-time and sometimes part-time, from 1969 to 1971, I think that's true.

MR. LAYTON: But during the period of 1962 to 1966, were you working part-time for Avis as a service agent?

MR. HIPPLE: We are talking about 1962 to 1966, car shuttling.

A I questioned this case before I came down, I wanted to save time and trouble for everybody.

MR. LAYTON: From 1962 to 1966, before you ever went in the employ of Avis, did you ever shuttle any cars?

A No.

MR. HIPPLE: Off the record.

(Whereupon, a short discussion was held off the record.)

Q When you were working with Avis do you recall when you started?

A June, 1969.

What were you doing specifically?

I was hired as a service agent.

Stout - Direct

Q Doing what?

A Gasing cars, vacuuming cars, washing the cars, checking for oil, gas and battery.

MR. LAYTON: Just for the record, I will state in my opinion all this testimony is immaterial.

Q Doing that, did you become familiar with the operation of car shuttlers?

A Yes.

Q Would you describe what they did for Avis to your knowledge?

A As far as I knew, from word of mouth and other union employees I worked with, I was new there, just a fledgling.. They ran cars from Lambert Airport to the Clayton Avis office and to the downtown Avis office at 10th and Washington or they would run cars back from the two locations to the airport.

Q Are you a union employee?

A Yes, I am.

Q Were you at the time, in 1969?

A I was on the probationary period for 30 or 90 days.

Q What union?

A Teamsters.

Q Were the other full-time employees of Avis members of the same local of Teamsters, at least the ones you work with?

Stout - Direct

A The other service agents, yes, they were Teamsters.

Q Were the shuttlers, do you know?

A No.

Q Were the shuttlers you saw the same people as a regular group of individuals who did the shuttling?

A Yes.

Q Do you know how the shuttlers were compensated, how they were paid?

A I heard they were paid out of petty cash.

Q Did you ever see this specifically?

A Yes, I have seen it.

MR. LAYTON: You saw shuttlers being paid?

A Yes.

MR. LAYTON: Why did you say you heard it was out of petty cash?

A I heard it before I saw it.

MR. LAYTON: I move that all this testimony be stricken.

Q Do you know personally how the amount they were paid was decided?

A \$1.50 per trip.

Q From the city out to the airport?

A Anyone shuttling to any one point was \$1.50.

Q Do you know if they were paid or reimbursed for any

Stout - Direct

expenses such as gas and oil?

A No.

Q Do you know whether or not any payroll taxes were taken out, Social Security, withholding taxes?

A No.

Q Did you ever see anything such as petty cash slips that were signed?

A Yes.

Q Could you describe that?

A They were usually pink vouchers. When I cleaned out the garbage which was one of my jobs, these copies would be in the garbage.

Q The petty cash slips?

A Travel vouchers with the amount the individual received for the shuttle.

Q Would you look at Defendant's Exhibit A and identify that, if you can?

A This is similar, but I don't think it is the exact type of travel voucher they had at the time I was working for Avis.

Q Do you know how shuttlers were contacted or did they contact Avis to do this?

A There was usually a set group of individuals that would do the shuttling, like one person was in charge of the

Stout - Direct

shuttlers, like the head shuttler.

Q The head shuttler, do you know whether the head shuttler was a full-time employee of Avis or not?

A No, I don't.

Q Did he drive cars himself?

A Yes, he did.

Q Did he pass out the cars to different people?

A Yes, he did.

Q Do you know whether Avis maintained a list of names and phone numbers of people to shuttle cars?

A No, not for sure.

Q Do you know whether Avis asked for any personal information from the shuttlers, Social Security numbers, home addresses, telephone numbers?

A No.

Q They didn't ask or you don't know?

A Pardon me?

Q They didn't ask or you don't know?

A I don't know that they asked.

Q Do you know if their driver's licenses or driving records were examined?

A No, I don't.

Q Was any preference given to any of the shuttlers who were so-called regulars?

Stout - Direct

A Yes.

Q By whom?

A The head shuttler and different supervisors for Avis.

Q The individual that we have been calling head shuttler, was he the same guy all the time?

A All the time I worked there, he was.

Q Do you recall his name?

A Not right offhand, I can't remember his name. I know who he is, but I can't place his name right now.

Q Are you familiar with instructions or information the shuttlers were given by Avis as to what to do and how to do it?

A Meaning?

Q Did you ever hear anybody from Avis tell them this is what you want you to do or this is how you do it, besides the fact that the car is at such and such a place and go get it?

A Just general type instructions, like, "We need these six or eight cars delivered down to 10th and Washington Streets."

Q Did you ever hear anything explained to them about insurance coverage on the cars?

A No.

Q Did you ever hear anything explained to them about

Stout - Direct

what would happen if they got a speeding ticket?

A No.

Q Or what would happen if the car broke down?

A No.

Q What about if they had an accident?

A No.

Q Was there one particular individual at the airport
that the shuttlers dealt with?

A No.

Q Do you know the procedure the shuttlers followed in
picking up a car and following it with any check-in procedure
when they got back?

A No.

Q Did anybody keep track of the mileage on the cars?

A Yes, on the vouchers, as I remember, the mileage
was there, the mileage in and mileage out was recorded on these.

Q Do you know how the head shuttle was compensated?

A No.

Q Do you know if he was paid by Avis on a regular
rate or strictly on the mileage he drove himself?

A I think he got the same amount as the other
shuttlers for driving cars. I don't know if there was any
other kind of remuneration.

Q Do you know how he became head shuttle?

A No.

Stout - Direct

Q Do you know if the shuttlers had any kind of identification to indicate they were shuttlers for Avis?

A I think they had some kind of I.D. card.

Q You don't remember what it looked like?

A No.

Q Did you have an I.D. card as an employee?

A Yes.

Q Do you know if they had something similar to yours or something different?

A It was similar, but it seems like it was a smaller type I.D.

Q Are you familiar with any records Avis kept to show the dates and amounts paid to the shuttlers?

A The only thing I was aware of was travel vouchers.

Q Do you know if when they checked in they had to sign a receipt; a petty cash statement for payment? Did you ever see that?

A No.

Q Do you know of anyone who shuttled a car for Avis in the past who was refused or not allowed to do anymore shuttling for any reason?

A Yes, I don't know the individual's name, but I do know this.

Q Do you know the circumstances or why?

Stout - Direct

A Friction was created between the union and the shuttle drivers who were not union members.

Q Was there someone at Avis who told this individual he couldn't drive anymore?

A I don't know the individual.

Q Do you know his title, what his position was with Avis?

A He was more or less, it was one of the supervisors, it came down from higher above.

MR. HIPPLE: I think that's about all we are going to get.

CROSS EXAMINATION

BY MR. LAYTON:

Q Just so the record is clear, you are testifying that you never had anything to do with Avis Rent A Car, Inc. prior to 1969?

A True, yes.

Q Your position with Avis Rent A Car System, Inc., when you first became employed with them was as service agent?

A Yes.

Q You didn't have any duties or responsibilities with respect to car shuttling, is that correct?

A True, yes.

Q The answers to some of the questions you have given

Stout - Cross

are based upon information you overheard or finding travel vouchers crumpled up in a waste basket or matters that you saw or heard with your own ears?

A Some of this I saw and heard with my own ears and some of the things are just hearsay.

Q Just hearsay?

A Right.

MR. LAYTON: I have no further questions.

(Witness Excused)

* * * *

[Reporter's Certificate omitted in duplicating]

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